



C.R.P.No.4997 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.4997 of 2023
and C.M.P.No.29174 of 2023

Sudarshan

... Petitioner

-Vs-

1.K.Bakthavatchalu
2.A.Krishnaveni
3.G.Govindammal
4.M.Jayalalitha
5.Dilli Bai
6.Kubendiran
7.Nagaraj
8.Rajeswari
9.R.Govindammal

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order and decreetal order in EP No.64/2022 in OS No.217/2019 on the file Subordinate Judge Arakkonam dt. 01.08.2023.

For Petitioner : Ms.R.Poornima

For Respondents : Mr.K.Bakthavatchalu
Party-in-Person for R1

ORDER

This civil revision petition arises against the order and decreetal order of the learned Subordinate Judge at Arakkonam in E.P.No.64 of 2022 in O.S.No.217 of 2019 on the file of the Subordinate Court at Arakkonam dated 01.08.2023.



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2. The civil revision petitioner is the legal heir of one Lingama Naidu, the fifth defendant in the suit. He has been arrayed as the 9th judgment debtor in the execution petition. O.S.No.217 of 2019 was originally presented before the Additional District and Sessions Court (Fast Track Court No.II), Ranipet, Vellore District as O.S.No.25 of 2005. This was a suit for partition and separate possession. After hot contest, the suit came to be decreed on 31.10.2006.

3. Lingama Naidu, though he suffered a decree, did not file an appeal. However, the mother and sisters of the plaintiff viz., defendants 1, 3 and 4 alone preferred an appeal. This appeal was received before this Court as A.S.No.386 of 2007. In the said appeal, the civil revision petitioner was a party, but he did not file any objections when the appeal was taken up for disposal on 26.02.2020. In fact, being a stranger to the family, he could not have made an objection either. However, it matters not because the appeal came to be disposed of, allotting the execution petition mentioned property in favour of the first respondent therein, viz., the plaintiff K.Bakthavatchalu.

4. On the strength of the decree granted in the appeal, Mr.Bakthavatchalu filed E.P.No.64 of 2022 to take delivery of item Nos.1 to 4 from the hands of the judgment debtors 1 to 14. By an order dated 01.08.2023 the learned trial Judge, noted that though the civil revision petitioner appeared and filed a counter, as they



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did not raise their little finger during the course of the original and appellate proceedings, which ended in favour of Mr.V.Bakthavatchalu, he ordered delivery. Against the said order of delivery, the present civil revision petition has been filed.

5. Heard Ms.R.Poornima for the civil revision petitioner and Mr.Bakthavatchalu, Party-in-Person.

6. After going through the papers, I pointed out to Ms.Poornima that neither Lingama Naidu, the predecessor-in-title of the civil revision petitioner had lost before the trial Court nor had he filed any appeal before this Court and hence, her client is bound by the judgment and decree. I further pointed out that this property being allotted to K.Bakthavatchalu, he is entitled to take possession of the same. At that stage, Ms.Poornma requested that her clients has been in possession of the property for decades and he is willing to purchase peace.

7. Mr.Bakthavatchalu, a senior lawyer practicing in this Court, readily came forward to settle the matter as he wanted to put an end to the litigation. He would point out that he has been litigating for the property for over 19 years. He submitted that the civil revision petitioner had been dragging the matter despite having agreed to purchase the same at Rs.8500/- per cent soon after the disposal of the appeal. Nonetheless, I took into consideration the age of the party-in-person as well as the fact that the civil revision petitioner has been in possession of the



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property for several years. I requested them to settle the matter amicably.

Mr.Bakthavatchalu requested that Rs.12,000/- per cent be fixed for the property and he stated that he wanted a sum of Rs.6,00,000/- in full quit over the claim of execution petition mentioned property.

8. He also pointed out that Mr.Sudarshan and his brother were consistently objecting to the transfer of patta for the property situated in S.No.319/33 at Ulliambakkam Village, Arakkonam Taluk, Ranipet District. After negotiation, both Mr.Sudarshan and Mr.Bakthavatchalu agreed that if a sum of Rs.5,00,000/- is paid as the value for the property, for which delivery has been ordered by the executing Court, it will be treated as a closure with respect to that item of the property.

9. Therefore, I adjourned the matter to today to enable Mr.Sudarshan to come up with the aforesaid amount. I also requested Ms.Poornima to file an affidavit that Mr.Sudarshan will have no objection for the transfer of patta in the name of Mr.Bakthavatchalu with respect to S.No.319/33.

10. When the matter was taken up today, Ms.Poornima had handed over a Demand Draft bearing No.566275 drawn on Union Bank of India, Perambur branch in the name of Mr.K.Bakthavatchalu for a sum of Rs.5,00,000/-. The receipt of this Demand Draft is acknowledged by Mr.Bakthavatchalu. In addition, Ms.Poornima has filed an affidavit of Mr.Sudarshan that he will give no objection for transfer of



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Patta in the name of Mr.K.Bakthavatchalu with respect to the remaining ½ share in the Well situated at S.No.319/33. Therefore, the fears of Mr.K.Bakthavatchalu stands allayed. The only order that has to be passed is recording the settlement arrived at between the parties. Mr.Bakthavatchalu shall execute the sale deed in favour of Mr.Sudarshan for the property situated at S.No.386.1 to an extent of 39 cents, Ulliambakkam Village, Arakkonam Taluk, Ranipet District to an extent of 39 cents. Both sides agree that the sale deed will be registered on **12.08.2024** before the Sub Registrar Office at Arakkonam. The costs and expenses for the execution of the sale deed will be borne by Mr.Sudarshan. It is also made clear that Mr.Sudarshan shall appear before the Tahsildar, Arakkonam, when called for at the time of transfer of Patta in the name of Mr.Bakthavatchalu and he shall tender his no-objection.

11. With the above directions, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2024

Index : Yes/No
Neutral Citation : Yes/No
KST

To

The Subordinate Judge
Arakkonam



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V. LAKSHMINARAYANAN, J.
KST

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