



C.R.P(MD)No.1951 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1951 of 2019

and

C.M.P(MD)No.9953 of 2019

Sulaiman

... Petitioner

Vs.

A.Liyakat Ali

... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the decretal and fair order, dated 30.09.2019 passed in E.A.No.205 of 2019 in E.A.No.452 of 2000 in E.P.No.565 of 1996 in O.S.No.612 of 1989 on the file of the Additional District Munsif, Madurai Town with costs.

For Petitioner : Mr.V.Ramakrishnan

For Respondent : Mr.V.George Raja
for M/s.Ajmal Associates

ORDER

The present revision petition has been filed by the 6th respondent in Execution Proceedings challenging the order in E.A.No.205 of 2019,



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wherein the Executing Court had rejected the application under Order 21 Rule 106 refusing to set aside *ex parte* order, dated 05.09.2018.

2. The revision petitioner herein is the legal representative of the 2nd defendant in O.S.No.612 of 1989 which was filed for recovery of money. Pursuant to the decree, the plaintiff had filed E.P.No.565 of 1996 to bring the property for sale and the sale was conducted and the respondent in the present revision petition is the auction purchaser. Thereafter, the auction purchaser had filed E.A.No.452 of 2000 to take delivery of the property. Pending delivery application, the 6th respondent in the Execution Proceedings, who is the legal representative of the 2nd defendant was set *ex parte* on 05.09.2018. Seeking to set aside the *ex parte* order, the revision petitioner had filed E.A.205 of 2019 and wanted to defend the Execution Proceedings. The said application has been dismissed by the Executing Court. Challenging the same, the present revision petition has been filed.

3. According to the learned counsel appearing for the revision petitioner, he has got a good case to defend and unless the *ex parte* order, dated 05.09.2018 is set aside and he is permitted to defend the execution proceedings, it would put great hardship.



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4. Per contra, the learned counsel appearing for the respondent had contended that the earlier attempts made by the present revision petitioner were unsuccessful and therefore, the petitioner does not have any right over the property.

5. I have carefully considered the submissions made on either side and perused the material records.

6. The revision petitioner herein had originally filed an application in E.A.No.309 of 1999 under Order 21 Rule 89 of C.P.C to set aside the sale. The said application was dismissed by the Executing Court. Challenging the same, the revision petitioner had filed C.M.A.No.1 of 2000 on the file of Principal Sub Court, Madurai and the same was allowed. Challenging the same, the auction purchaser had filed C.R.P.No.1735 of 2003. This Court had allowed the revision filed by the auction purchaser with an observation that the present revision petitioner is not a person interested in the property. Thereafter, the Court has proceeded to confirm the sale and issued sale certificate. Therefore, it is clear that the present revision petitioner as per the orders of this Court in C.R.P.No.1735 of 2003 is not a person interested in the property.



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Therefore, he has no defense whatsoever in E.A.No.452 of 2000 which has been filed for taking delivery of the property. In such circumstances, even if he is set *ex parte* in the said proceedings, no prejudice would be caused to him. The Executing Court has rightly dismissed his application to set aside the *ex parte* order. There are no merits in the civil revision petition.

7. Hence, this Civil Revision Petition stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

01.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Additional District Munsif,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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