



C.R.P(MD)No.2973 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.2973 of 2023
and
C.M.P(MD)No.15276 of 2023

Sudhir Jacob

... Petitioner / Defendant

Vs

Babu

... Respondent / Plaintiff

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 21.08.2023, passed in E.A.No.13 of 2023 in E.P.No.121 of 2015 in O.S.No.151 of 2010, on the file of the Learned First Additional Subordinate Court, Nagercoil and allow this Civil Revision Petition.

For Petitioner : Mr.C.Kishore

For Respondent : Mr.D.Nallathami



C.R.P(MD)No.2973 of 2023

WEB COPY

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 21.08.2023, passed in E.A.No.13 of 2023 in E.P.No.121 of 2015 in O.S.No.151 of 2010, on the file of the Learned First Additional Subordinate Court, Nagercoil and allow this Civil Revision Petition.

2. In pursuance of the decree passed in O.S.No.151 of 2010, E.P.No.121 of 2015 was preferred by the respondent herein. The E.P., is one for sale of the immovable properties belongs to the judgment debtor. After prolonged adjournment, the impugned application was taken out by the respondent in E.A.No.13 of 2023 to reduce the upset price. On that ground that public auction was conducted on 20.04.2023. The upset price was fixed at Rs.43,00,000/-. There were no bidders. So the present petition is filed to reduce the upset price to Rs.40,00,000/-.

3. That was resisted by the revision petitioner stating that the guideline value of the property and the market value of the land alone is



C.R.P(MD)No.2973 of 2023

more than 1.75 Crores, apart from the value of the building. So the upset price sought by the respondent is not proper.

4. After hearing both sides, the Execution Court reduced the upset price from Rs.43,00,000/- to Rs.40,00,000/-, that was challenged stating that the market value and the guidance value is more than what is mentioned in the petition.

5. Learned counsel for the petitioner would submit that he has no objection to mention the price or the valuation mentioned by the revision petitioner in the Settlement of Proclamation (SOP).

6. So that the grievance of the petitioner may be addressed. In the absence of any proper documentary evidence to show the correct valuation of the property, it is a basic principle that the value mentioned by the decree holder, along with the value mentioned by the judgment debtor should be reflected in the settlement of proclamation.



C.R.P(MD)No.2973 of 2023

7. Considering the above said position, there shall be a direction to the learned First Additional Subordinate Court, Nagercoil. to mention the valuation of both the properties while settling the settlement of proclamation.

8. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

19.03.2024

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

pnn

To

- 1.The First Additional Subordinate Court, Nagercoil.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

4/6



WEB COPY



C.R.P(MD)No.2973 of 2023



WEB COPY



C.R.P(MD)No.2973 of 2023

G.ILANGO VAN, J.

pnn

ORDER
IN
C.R.P(MD)No.2973 of 2023
and
C.M.P(MD)No.15276 of 2023

19.03.2024