

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 932 OF 2019
[@ SPECIAL LEAVE PETITION (C) NO. 3608 OF 2017]

RAMASAMY (PURCHASER)

Appellant (s)

VERSUS

VENKATACHALAPATHI (DECREE HOLDER) & ANR.

Respondent(s)

J U D G M E N T

R. BANUMATHI, J.

1. Leave granted.

2. This appeal arises out of the Judgment and order dated 09.11.2016 passed by the High Court of Judicature at Madras in CRP (NPD) No. 3727 of 2015, in and by which, the learned Single Judge affirmed the order of the Executing Court, finding the appellant guilty of Contempt of Court for the wilful disobedience of the order of injunction dated 09.12.2004 passed in the suit for specific performance, being OS No. 162 of 2004 filed by the first respondent.

3. The second respondent, Deivathal, had entered into an Agreement to Sell dated 08.06.2004 in favour of the first respondent. The first respondent filed the suit for specific performance, being OS No. 162 of 2004 and in the said suit, interim injunction was granted on 09.12.2004 restraining the second respondent - Deivathal not to alienate the suit property. The said suit for specific performance was decreed on 24.08.2006. Even when the said suit for specific performance was pending, it is alleged that in violation of the interim injunction dated 09.12.2004, the second respondent - Deivathal had executed the sale deed dated 17.06.2005 in favour of the appellant who is none other than the father-in-law of the second respondent. After the suit for specific performance was decreed, the first respondent has also got the sale deed dated 07.12.2006 executed through the process of the Court. The appellant herein filed the suit for injunction, being OS No. 29 of 2007, which came to be dismissed. The first respondent also filed another suit, being OS No. 61 of 2010 to declare the sale deed dated 17.05.2005 in favour of the appellant as null and void and the said suit, being OS No. 61 of 2010 was also decreed. The first appeal preferred by the appellant also came to be dismissed on 24.02.2017. It is stated that the second appeal is pending before

the High Court.

4. In the present appeal, we are concerned only with the alleged disobedience of the interim order dated 09.12.2004, disobedience of which the appellant was found guilty. In the Execution Petition filed by the first respondent under Order XXI Rule 32(5) and Order XXXIX Rule 2(a) of the Code of Civil Procedure and the Executing Court held that there was willful disobedience of the order of the interim injunction dated 09.12.2004 and found both, the appellant as well as the second respondent, guilty of Contempt of Court.

5. A Revision was filed by the second respondent, being CRP (NPD) No. 1593 of 2014 challenging the order of the Executing Court and the said revision was allowed on 11.11.2014. While allowing the said revision filed by the second respondent - vendor, the learned Single Judge observed that the materials available before the court did not indicate that the second respondent (first defendant) is guilty of any violation, whereas in the revision filed by the appellant in CRP (NPD) No. 3727 of 2015 dated 09.11.2016, the learned Single Judge took a different view by observing that the sale deed was executed during the pendency of the order of injunction and,

therefore, the Executing Court rightly found the appellant guilty of Contempt of Court for the disobedience of the order dated 09.12.2004.

6. We have heard the learned counsel for the parties and perused the impugned order and the other materials on record. Violation of the order of injunction is a serious matter and unless there is a clear evidence that the party has wilfully disobeyed the order of the court, the party cannot be punished for disobedience and sent to imprisonment. Though the appellant is said to be the father-in-law of the second respondent, no materials were placed before the court to show that he had the knowledge of the interim order dated 09.12.2004. However, the fact remains that the second respondent and the appellant are the daughter-in-law and the father-in-law. The second respondent-vendor having been found not guilty of contempt of court in the revision (being CRP (NPD) No. 1593 of 2014), the appellant cannot be placed in a worse situation than his vendor. It is also pertinent to point out that the first respondent - Decreeholder also had got the sale deed executed on 07.12.2006. The first respondent has also said to have taken the possession of the property in dispute.

7. In the above facts and circumstances of the case and considering that the appellant is an octogenarian, the impugned order is set aside and the appeal is allowed. We make it clear that the order in this appeal shall not prejudice the contention of the respective parties in the second appeal pending before the High Court and the same shall be decided on its own merits.

No costs.

.....J.
[R. BANUMATHI]

.....J.
[R. SUBHASH REDDY]

New Delhi;
January 22, 2019.

CORRECTED

ITEM NO.17

COURT NO.8

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 3608/2017

(Arising out of impugned final judgment and order dated 09-11-2016 in CRPNP No. 3727/2015 passed by the High Court Of Judicature At Madras)

RAMASAMY (PURCHASER)

Petitioner(s)

VERSUS

VENKATACHALAPATHI (DECREE HOLDER) & ANR.

Respondent(s)

Date : 22-01-2019 This petition was called on for hearing today.

CORAM : HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Ms. Preetika Dwivedi, AOR

For Respondent(s) Mr. A. T. M. Rangaramanujam, Sr. Adv.
Mr. M. A. Chinnasamy, AOR
Mr. C. Rubavathi, Adv.
Mr. P. Raja Ram, Adv.
Mr. V. Senthil Kumar, Adv.
Mr. Pratyush Raj, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed non-reportable Judgment.

Pending interlocutory application(s), if any, is/are disposed of.

(JAYANT KUMAR ARORA)
COURT MASTER

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed non-reportable Judgment is placed on the file)