

Petitioner Vs. Respondent

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Court : Chennai Madurai

Decided On : Aug-05-2016

Judge : T. Raja

Appeal No. : W.P(MD)No. 14171 of 2016 & WMP(MD)No. 10525 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

T. Raja, J.

1. The first respondent has passed the order impugned in this Writ Petition dated 05.07.2016, in and by which, the joint family property belonging both to the petitioner and the second respondent has been brought to public auction, as the second respondent has siphoned off the funds belonging to the first respondent.

2. The grievance of the petitioner is that since there is no demarcation made between the petitioner and the second respondent and admittedly, the second respondent who is facing recovery proceedings at the hands of the first respondent, the petitioner cannot be put to any prejudice. So along as the property is properly demarcated or subdivided in respect of the property in question, it is highly impossible for the first respondent to bring the property into auction. In any event, the petitioner has no objection in selling away the half of the property in

question belonging to the second respondent.

3. The learned Government Advocate submitted that since it is a matter of misappropriation and even in the impugned notice it is stated that half of the property is brought to auction and therefore, the petitioner's right will not in any way be affected and thus, the auction may go on, however, the confirmation alone may be stayed.

4. Considered the submissions made on either side and perused the materials available on record.

5. Since the petitioner has given an undertaking before this Court that half of the property in question can be brought into action by the first respondent, for which, he has no objection, the first respondent is directed to demarcate or sub-divide the property in the presence of the petitioner as well as the second respondent, within a period of two weeks from the date of receipt of a copy of this order. On doing so, the first respondent is directed to bring the half of the property belonging to the second respondent within a period of two weeks from the date of demarcation.

6. Until such exercise is done, the impugned order in this Writ Petition remains to be stayed and accordingly, it is stayed. Notice through Court as well as privately returnable by 04.10.2016. List the matter along with counter on 04.10.2016.

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