A.No.3865 of 2015
O.A.Nos.301 to 303 of 2015
A.Nos.2146 to 2148 of 2015
in
C.S.No.222 of 2015

M.M.SUNDRESH, J.

The suit has been laid originally by S.Baskar, since deceased along with the other plaintiff, who is incidentally his wife, for the following reliefs:

(a)for a direction that an account may be taken of the amounts due to the 1st defendant by the plaintiffs towards the principal and interest in respect of housing loan account in File No.41002869, Customer Code No.SLM-No.12012818 and on payment of the same by the plaintiffs, the 1st defendant may be directed to cancel the mortgage instrument viz., memorandum confirming deposit of title deeds dated 01.11.2011, registered as Document No.3673 of 2011, Joint Sub Registrar – II, Krishnagiri, and execute and register an acknowledgement/receipt in writing to that effect that the mortgage created by the plaintiffs has been extinguished and hand over all the documents of title to the plaintiffs herein in respect of the plaint A Schedule property.

(b)for a declaration that the order and decretal order dated 07.08.20145 in O.P.No.1 of 2013 passed by the 4th defendant, directing the 5th defendant for registration of

the Sale Deed dated 12.06.2013 in respect of the Schedule A property, in favour of the 2nd defendant, as illegal, invalid and non-est in the eyes of law and consequently set aside the same.

(c)for a declaration that the sale deed dated 12.06.2013 and registered as Document No.2471 of 2014, Joint Sub-Registrar II, Krishnagiri as illegal, invalid and non-est in the eyes of law, since the same is vitiated by fraud and forgery, and consequently, not binding on the 1st plaintiff in relation to the plaint Schedule A property.

(d)for a permanent injunction restraining the 6th defendant from effecting mutation of name in respect of the plaint Schedule A property in the name of the second defendant on the strength of the fraudulent sale deed dated 12.06.2013 and registered as document No.2471 of 2013, Joint Sub Registrar II, Krishnagiri.

(e)for a permanent injunction, restraining the 2nd defendant or any other person/s authorised by her from encumbering or alienating or dealing with the plaint Schedule A property either by way of mortgage, lease or charge, on the strength of the fraudulent sale deed dated 12.06.2013 registered as document No.2471 of 2013, Joint Sub Registrar – II, Krishnagiri.

(f)for a mandatory injunction directing the 7th defendant to restore the power service connection in the

name of the 1st plaintiff in respect of the power service connection No.367, provided in the plaint schedule property, morefully described in the Schedule B property.

2.For the sake of convenience, the parties are referred to as per their original rank in the suit.

3.Pending the suit, the first plaintiff viz., S.Baskar died and thereafter, his daughter and mother were brought on record as plaintiffs 3 and 4.

4.Seeking to revoke the leave granted, Application No.3865 of 2015 has been filed. According to defendants 2 and 3, the schedule mentioned property is mortgaged in favour of the Finance Company. It is also the case of defendants 2 and 3 that subsequently, the first plaintiff since deceased and the second plaintiff have alienated the schedule mentioned property in favour of defendants 2 and 3. The matter did not rest there. The proceedings have already been initiated before the Debts Recovery Tribunal in SARFAESI Appeal No.81 of 2014 on the file of Debts Recovery Tribunal – III, Chennai.

4.Now a memo has been filed by the Finance Company stating that its dues have been cleared and pursuant to which, the documents have been handed over in favour of the second plaintiff. Learned counsel appearing for defendants 2 and 3 has made a statement to the effect that the sale in favour of the said defendants has also been acknowledged by the second plaintiff and pursuant to which, there is also necessary correction in the revenue records including the encumbrance certificate dated 27.07.2016. However, learned counsel for the plaintiffs submits that considering the interest of the minor and in the absence of any instruction regarding the settlement deed said to have been executed inter se parties, appropriate orders may be passed by this Court.

5.Admittedly, in the case on hand, the schedule mentioned property is situated outside the territorial jurisdiction of this Court. A perusal of the cause of action would show that there is no jurisdiction for this Court to entertain the suit. Even the mortgage is said to have been created at Salem. The alleged transaction inter se the original first plaintiff and the second plaintiff and defendants 2 and 3 has also taken place outside the territorial jurisdiction of this Court. Though the office of first defendant is situated here, it cannot be said that jurisdiction is available to this Court. Apparently, the relief against the first defendant does not survive as there is no dispute on the fact that the dues of the first defendant has been cleared and the mortgage has been redeemed. Therefore, the only dispute, if any, is between the plaintiffs on the one hand and defendants 2 and 3 on the other hand. Thus, looking at from any angle, there is no territorial jurisdiction available to this Court.

6.In such view of the matter, the application in A.No.3865 of 2015 stands allowed. Registry is directed to return the plaint to the plaintiffs for presenting the suit before the appropriate Court. Time of presentation of suit is four weeks from the date of return of the plaint.

7.In view of the order passed in A.No.3865 of 2015, the applications in O.A.Nos.301 to 303 of 2015 and A.Nos.2146 to 2148 of 2015 are closed.

17.10.2016

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M.M.SUNDRESH, J.

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