

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. Nos.327 and 328 of 2011

The Official Liquidator
High Court, Madras, for
M/s.Perfect Benefit Fund Limited
(in Liquidation). .. Appellant in both
OSAs.

-vs-

1.M.Gopal
2.S.Madan Kumar
3.A.Rajendran
(R-3 impleaded vide order of Court
dt.19.09.2016 in MP.No.1/2013) .. Respondents in both OSAs.

Appeals filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the orders dated 30.03.2011 made in C.A.No.1908 of 2010 in PP.No.126 of 2008 dated 27.06.2011 made in C.A.No.456 of 2011 in C.A.No.1908 of 2010 in C.P.No.126 of 2008 on the file of original side of this Court.

Prayer in C.A.No.1908 of 2010 in C.P.No.126 of 2011:-

This Company Application praying this court to direct the 1st respondent/provisional liquidator of the company M/s. Perfect Benefit Fund Limited, Chennai to return the original documents of title relating to the properties mentioned in company application, which were handed over by the 2nd respondent/debtor of the company in provisional liquidation at the time of creating the simple mortgage on 23.04.1998 and 12.06.1998 after collecting the Principal amount of Rs.4,25,000/- from the applicant/purchaser.

C.P.No.126 of 2011: (a) To set aside the sale originating in the

sale deed dated 31.05.2010 for the seasons stated in paragraph2.

b) To direct the applicant to produce all the documents relating to the sale proceeding culminating to the sale deed dated 31.05.2014.

c) To direct the appellant/3rd party purchase to pay entire due amount of Rs.57,90,226/- together with interest @ 24% p.a. Till the date of entire settlement, if he is willing to pouses the mortgaged properties of Sri S. Madan Kumar and Sr.A. Rajendran, the debtors of the company in liquidation, otherwise.

d) to direct the above hand debtors to pay the above mentioned due amount to the official liquidator.

Prayer in C.A.No.456/2011 in C.A.No.1908 of 2010 in C.P.No.126/2008:-

To condone the delay of 55 days in filing this review application against the order dated 30.03.2011 in C.A.No.1908 of 2010 in C.P.No.126 of 2008.

To review and recall the order dated 30.03.2011 in Company application no.1908 of 2011 for the for the reasons stated in the accompanying affidavit and consequently direct the first respondent to pay a sum of

1 Rs.4,75,000/- (Rupees four lakhs seventy five thousands only) from 17.04.1998.

2 Rs.2,75,000/- (Rupees Two lakhs seventy five thousands only) from 23.04.1998.

3 Rs.1,50,000/- (Rupees one lakh fifty thousand only) from 12.06.1998.

All together with contracted rate of interest till the date of settlement minus the amount of Rs.8,50,000/- (Rupees Eight lakhs fifty thousands only) already remitted by respondent no.1 herein.

4. To direct that the cost of the application do come out of the fund of the company in liquidation.

For Appellant : Mr.S.R.Sundar
For Respondents : Mr.K.Premkumar

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The memo of calculations has been perused. It transpires that the outstanding amount payable by the first respondent, if interest is calculated at 12% p.a., would be Rs.9,19,589.41, which the first respondent is willing to pay within a maximum period of three (3) months from today.

2. In view of the aforesaid, we are of the view that the dispute can be resolved and thus, we direct as under:

- a) The first respondent to pay the sum of Rs.9,19,589.41 (Rupees nine lakhs nineteen thousand five hundred eighty nine and paise forty one only) within three (3) months from today;
- b) In case of any default, contractual amount would become payable;
- c) On payment of the amount, the documents in possession of the Official Liquidator, mortgaged by respondents 2 and 3, will be released to the first respondent.

3. Original Side Appeals are, accordingly, disposed of, leaving the parties to bear their own costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+2cc to Mr.B. Mutharasu, Advocate, S.R.No.59319 and 59320
+4cc to Mr.S.R. Sundar, Advocate, S.R.No.59468, 59469, 59958 and 59959

ppa (CO)
md (10/11/2016)

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