

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

C.S.No.771 of 2016

and

O.A.No.927 of 2016

M/s.Naihaa Retail Private Limited
rep. By its Managing Director R.Arvind ... Plaintiff

Vs

1.M/s.Pridhvi Asset Reconstruction and
Securitisation Company Limited,
Door 1-55, Raja Prasadamu,
4th Floor, Wing I, Masjid Banda Road,
Kondapur, Hyderabad - 84 and
at 155, Anna Salai, Chennai - 3.

2.The Authorised Officer,
State Bank of India,
Industrial Finance Branch,
No.155, Anna Salai, Chennai - 2.

3.The Secretary,
Ministry of Micro Small and Medium
Enterprises, Shastri Bhavan,
Chennai - 6. ... Defendants

Plaint filed under Order VII Rule 1 C.P.C. R/w Order
IV Rule 1 O.S. Rules.

For Plaintiff : Mr.T.V.Ramanujam, Sr. Counsel

for Mr.S.Sridhar

For Defendants : Mr.Srinath Sridevan for R1/caveator

JUDGMENT

The suit has been laid for the following reliefs:

(a) declaration that the sale certificate registered in favour of the first defendant in respect of the immovable property bearing Door No.20, Raja Bathar Street, T.Nagar, Chennai - 17 and No.6, Somasundaram Street, T.Nagar, Chennai - 17 is fraudulent, invalid in law, non-est in law and null and void, sham and nominal, consequently cancel the sale certificate executed in favour of the first defendant;

(b) declaration that the possession notice in respect of the property bearing Door No.20, Raja Bathar Street, T.Nagar, Chennai - 17 and No.6, Somasundaram Street, T.Nagar, Chennai - 17 dated 14.10.2016 in pursuance of the fraudulent sale certificate dated 14.03.2016 in favour of the first defendant is invalid in law;

(c) directing the defendants 1 and 2 to render true and proper accounts in respect of the loan transaction of the loan facility availed by the plaintiff with the second defendant;

(d) permanent injunction restraining the defendants 1 and 2, their men, agents, representatives, executors from taking possession of the immovable properties situated at No.20, Raja Bathar Street, T.Nagar, Chennai - 17 and

No.6, Somasundaram Street, T.Nagar, Chennai - 17
except under due process of law;

(e) directing the third defendant to constitute a committee to investigate the plaintiff company's financial loss for the period 2013-2016 and file a detailed report before this Court and for granting the relief of waiver of interest to the plaintiff company.

2. After making submissions on merits, the learned senior counsel appearing for the plaintiff submits that the plaintiff may be given liberty to work out the remedy before the Debt Recovery Tribunal. Incidentally, it is submitted that considering the fact that the plaintiff is in possession and enjoyment of the schedule mentioned property, the interim order may be extended till such time.

3. Learned counsel appearing for the first defendant submits that appropriate order may be passed in the suit itself as nothing survives thereafter.

4. Considering the above said submission, this Court is of the view that Section 14 of the Limitation Act is required to be applied to the case on hand so as to enable the plaintiff to approach the appropriate forum. This Court is also of the view that notwithstanding the rival

contentions on the nature of possession of the plaintiff, the same requires to be protected as admittedly the plaintiff is in occupation as of now. Accordingly, the suit stands disposed of in the following terms:

1.The plaintiff is given liberty to approach the Debt Recovery Tribunal, Chennai within a period of four weeks. Till such time, the order of injunction granted by this Court shall continue.

2.The Debt Recovery Tribunal, Chennai, shall decide the application to be filed within the time granted by this Court on its own merits without rejecting it on the ground of limitation.

3.All the issues are left open to be agitated by the parties.

No costs. Consequently, connected application is closed.

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28.11.2016

//Certified to be a true copy//
Dated this the day of 2016.

R.s/27.05.2016
From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.