

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.09.2016

CORAM

THE HON'BLE MR. JUSTICE T.MATHIVANAN

C.R.P (PD) Nos.691 and 692 of 2012

&

M.P.Nos.1 & 1 of 2012

1.M/s.Vaiera Manikandan Finance
2.M/s.Sri Manikandan Finance
3.M/s. Sri Manikandan Constructions
4.A.Chellapillai

... Petitioners
in both the petitions

Vs.

1.P.Kandasamy
2. The Supreintending Engineer
T.W.A.D Board, Erode
3.The Executive Engineer
Tamil Nadu Water and Drainage Board
RWS Division, 8th Cross
Sengunthapuram
Karur-4

... Respondents
in both the petitions

Prayer in C.R.P.No.691 of 2012: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 17.06.2011 in I.A.No.117 of 2008 in an unnumbered CMA of 2008 on the file of the Principal District Judge, Salem.

Prayer in C.R.P.No.692 of 2012: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.118 of 2008 in an unnumbered C.M.A.No. /2008 dated 16.06.2011 on the file of the District Judge, Salem.

For Petitioners : N.Kalyanaraman

For Respondents : M/s.T.R.Rajaraman
for M/s.P.Veena for R1

M/s.S.Thamizharasi for R2 and R3

ORDER

C.R.P.No.691 of 2012 has been directed against the fair and decretal order dated 17.06.2011 and made in the application in I.A.No.117 of 2008 on the file of the Principal District Judge, Salem. C.M.A.No.692 of 2012 has been directed against the order dated 16.06.2011 and made in the application in I.A.118 of 2008 on the file of the Principal District Judge, Salem.

2. The revision petitioners are the petitioners in the insolvency petition in I.P.No.6 of 2007 on the file of the Subordinate Judge, Mettur Dam. The respondents are the respondents therein and the first respondent herein is the contesting respondent.

3. It is revealed from the records that the revision petitioners have taken out a petition in I.P.No.6 of 2007 under Section 6 and 9 of the Provincial Insolvency Act to adjudge the first respondent herein as an insolvent since he had committed an act of insolvency and thereby deprived the petitioner from realising the 'A' schedule mentioned amounts as stated in the petition and to vest the properties (bill amount) described in the 1st item of B schedule hereunder belonging to the 1st respondent now with the 2nd respondent and the agricultural properties belonging to the 1st respondent now mortgaged with the 3rd respondent i.e., the 2nd item of B schedule property mentioned hereunder to the official receiver for the benefit of the creditors of the 1st respondent.

4. During the pendency of I.P.No.6 of 2007, the petitioners have filled an application in I.A.No.17 of 2007 under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure seeking the relief of ad-interim injunction as against the respondents. That petition was allowed granting injunction against which the first respondent had preferred a Civil Miscellaneous Appeal before the Principal District Judge, Salem. Along with the Civil Miscellaneous Appeal, the petitioner had also filed a petition in I.A.Nos.117 and 118 of 2008 under Order 41 Rule 3A CPC to condone the delay of 58 days and 40 days respectively in filing the appeal. The learned Principal District Judge had allowed both the petitions imposing a cost of Rs.300/-. Challenging the said orders the present revisions are

filed.

5. Heard Mr.N.Kalyanaraman, learned counsel for the petitioners, Mr.T.R.Rajaraman, learned counsel appearing for Ms.P.Veena, learned counsel on record for the first respondent and Ms.S.Thamizharasi, learned counsel appearing for Respondents 2 and 3. This Court has perused the averments of the grounds of revision as well as the impugned orders.

6. It is pertinent to note here that the insolvency petition in I.P.No.6 of 2007 seems to have been filed in the year 2007 and this petition has been pending idle without any progress on the file of the subordinate Judge, Mettur Dam. Considering the long pendency of the insolvency petition, this Court finds that both the Civil Revision Petitions can be dismissed confirming the order of the learned Principal District Judge, Salem with a direction to dispose of the appeals in C.M.A.Nos.17 and 18 of 2011.

Accordingly, the Civil Revision Petitions are dismissed and the learned Principal District Judge is directed to dispose of the appeals in C.M.A.Nos.17 and 18 of 2011 within a period of two weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

29.09.2016

Index: Yes/No

Internet: Yes

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Note: Issue order copy on 06.10.2016

T.MATHIVANAN.J.,

gpa

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