

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.03.2018

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

CIVIL REVISION PETITION (NPD) No.254 of 2018

1.Mr.Babu Vargheese

2.Mrs.Thankam Babu Vargheese ... Petitioners

vs

M/s.Green Tree Homes and
Ventures Pvt. Ltd.,
New No.13, Sriman Srinivasan Road,
Alwarpet,
Chennai 600 018. .. Respondents

The Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 16.12.2017 passed by the learned II Assistant Judge, City Civil Court, Chennai in O.S.SR.No.72514 of 2017.

For Petitioner ... Mr.M.Aravind Subramaniam

For Respondent ... No Appearance

ORDER

The Civil Revision Petition has been filed to set aside the fair and decretal order dated 16.12.2017 passed by the learned II Assistant Judge, City Civil Court, Chennai in O.S.SR.No.72514 of 2017.

2.The petitioner has presented a plaint under Order VII Rule I of CPC on the file of the learned II Assistant Judge, City Civil Court, Chennai in O.S.SR.No.72514 of 2017 for specific performance and permanent injunction. The Court below, without numbering the suit, has passed an order stating that the said suit has been barred under Section 34 of the SARFAESI Act. Therefore, the Court below rejected the suit.

3.The learned counsel for the petitioner submitted that the averments made by the petitioner/plaintiff in the plaint that notice has been issued by the Bank against the respondent. Therefore, at this stage, the learned counsel for the petitioners undertakes to implead the concerned Bank as a party in the suit and to proceed with the matter in accordance with law.

4.This Court considered the submissions made by the learned counsel for the petitioners and perused the materials available on record. Notice sent to the respondent has been returned with an endorsement "vacated from the said premises" and none appeared for the respondent.

5.Considering the fact that the suit is at un-numbered stage and the submissions made by the learned counsel for the petitioners and in

the interest of justice, this Court is inclined to pass the following order:

"(i)The order dated 16.12.2017 passed in O.S.S.R.No.72514 of 2017 by the learned II Assistant Judge (FAC) I Assistant Court, City Civil Court, Chennai is set aside.

(ii)In view of the undertaking given by the learned counsel for the petitioners, the petitioners are permitted to amend cause title and to implead the concerned Bank as a party in the said suit.

(iii)Thereafter, if the plaint is in order, number the suit and decide the maintainability of the suit, at a later stage, if necessary.

(iv)The Civil Revision petition is ordered with the above said directions. No costs. "

02.03.2018

Speaking/Non Speaking order.

Index: Yes/No.

Note to Office:

Issue order copy on 06.03.2018.

D.KRISHNAKUMAR,J.

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To

The Registrar,
City Civil Court,
Chennai.



C.R.P.(NPD)No.254 of 2018

Dated 02.03.2018

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