

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 20TH DAY OF JUNE 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.Nos.3985 & 3986 OF 2018

IN

E.P.No.2494 OF 2010

E.P.No.2494 OF 2010

Kalpatharu Benefit Fund Limited
rep.by its Director P.R.Balaji
No.134, Rasappa Chetty Street,
Chennai - 600 003.

...Decree Holder

-Versus-

1. H.Anantharaman
2. K.Krishnamurthy
Both residing at No.93, Veda Vinayagar Koil Road,
Perambur Barracks Road,
Vepery, Chennai - 600 007.

... Judgement Debtors

A.Nos.7261 & 7266 OF 2017

K.Krishnamurthy
Son of Kothandaraman
No.93, Perambur Barracks Road
Vepery,
Chennai 600 007

...Applicant/2nd Judgment Debtor

-Versus-

1. Kalpatharu Benefit Fund Limited
rep.by its Director P.R.Balaji
No.134, Rasappa Chetty Street,
Chennai - 600 003.

...1st Respondent/Decree Holder

2. Anantharaman
Son of T.S.Harmoorthy
No.93, Perambur Barracks Road
Vepery
Chennai 60007

..2nd Respondent/1st Judgment Debtor

A.Nos.3985 & 3986 OF 2018

K.Krishnamurthy
 Son of Kothandaraman
 No.93, Perambur Barracks Road
 Vepery,
 Chennai 600 007

...Applicant/Applicant/2nd Judgment
 Debtor

-Versus-

1. Kalpatharu Benefit Fund Limited
 rep.by its Director P.R.Balaji
 No.134, Rasappa Chetty Street,
 Chennai - 600 003.

...1st Respondent/1st Respondent/Decree Holder

2. Anantharaman
 Son of T.S.Harmoorthy
 No.93, Perambur Barracks Road
 Vepery
 Chennai 60007

..2nd Respondent/2nd Respondent /1st Judgment Debtor

3. T.Gunaraj
 Son of Thangapandian
 No.21/10, 4th Main Road,
 Jawahar Nagar
 Chennai 600082.

...3rd Respondent/Auction Purchaser

A.No.3985 OF 2018

Application praying that this Hon'ble Court be pleased to transfer the Appl.No.7261 of 2017 and Appln NO.7266 of 2017 in EP No.2494 of 2010 on the file of Master, Madras High Court to some other court.

A.No.3986 OF 2018

Application praying that this Hon'ble Court be pleased to transfer the Appl.No.7261 of 2017 and Appln NO.7266 of 2017 in EP No.2494 of 2010 on the file of Master, Madras High Court pending disposal transfer application.

These Applications coming on this day before this court for hearing the court made the following order:

A.No.3985 of 2018: This application has been filed to transfer A.Nos.7261/2017 and 7266/2017 filed in E.P.No.2494/2010 from the file of the Master, Original Side of Hon'ble High Court of Judicature at Madras to the file of some other Court.

2.The entire allegation in the application indicates that the Master has proceeded to pass certain orders on the ground that repeated adjournments has been sought by the Judgment Debtor and the counter has not been filed. The main allegation set out in paragraph 10 of this application is as follows:

"10.I submit that the above applications are posted for counter on 14.03.2018 of respondent/decreed holder and respondent /JD-1 in Appl.No.1058/2018 in Appl.No.7261/2017 to receive additional affidavit. It is not posted for enquiry in the above application, but the Hon'ble Master insisted my counsel to argue the matter on the same day. My counsel requested one week time for furnishing judgment in the Applications, but Hon'ble Master refused to grant one week time and insisted my counsel to argue the matter on 16.02.2018. From the beginning the Hon'ble Master acted not according to law and acted in a biased manner. I strongly feel that I will not get justice from the Hon'ble Master and I have no confidence in Hon'ble Master."

3.Hence, I am of the view that when the Courts discharging judiciary function strictly according to law and when adjournments are not granted as per the wishes of

the parties, attributing motive for dragging the proceedings, cannot be permitted just like that to suit their convenience. If such reason is acceded for transfer of any proceedings from lower forum, that will give undue advantage to the litigants, who are in the habit of dragging the proceedings.

4.The applicant is the judgment debtor, who having failed to file counter and not argued the matter despite the opportunities given cannot attribute any motive of bias as against the Master. I do not find any merits to interfere in the order of the Master. Accordingly, this application lacks *bonafide* hence, dismissed. Consequently, A.No.3986 of 2018 is also dismissed.

Sd/.N.S.K.J

20.06.2018

//Certified to be a true copy//

Dated this the th day of 2017.

KY/27.06.2018

COURT OFFICER

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