



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (NPD) (MD) Nos.439 and 812 of 2018

and

C.M.P (MD) No.3618 of 2018

1.C.Pency
2.Fancy Bai
3.C.Poncy
4.Bensigar

... Petitioners/petitioners/Defendants
in both CRPs

Vs.

The State Bank of Travancore,
Rep. by the Branch Manager,
Palliyadi Branch,
Valvachagostam Village,
Kalkulam Taluk,
Kanyakumari District.

... Respondent/Respondent/Plaintiff
in both CRPs

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India to call for the records pertaining to the fair and decreetal orders passed by Sub Court, Padmanabhapuram in I.A.No.48 of 2017 in O.S.No.245 of 2013, dated 02.01.2018 and 02.02.2018 and set aside the same.

For Petitioners : Mr.K.P.Narayana Kumar
For Respondent : Mr.Pala. Ramasamy

C O M M O N O R D E R

These revision petitioners are the defendants in the suit in O.S.No.245 of 2013 filed by the plaintiff/State Bank of Travancore, Palliyadi Branch and the suit was filed for recovery of money to the tune of Rs.4,09,340/-. The learned Sub Judge, Padmanabapuram passed an exparte order, dated 01.07.2016 in the suit pursuant to the continuous absence of the defendants before the Trial Court, directing them to deposit Rs.4,09,340/- along with 12% interest from the date of petition till the date of payment with costs. Aggrieved by the said order, the defendants had filed I.A.No.48 of 2017 in O.S.No.245 of 2013 seeking to condone the delay of 6 days in preferring application to set aside the exparte decree dated 01.07.2016 in which, a conditional order was passed on 02.01.2018 to the effect that in the event of deposit of a sum of Rs.2,50,000/- on or before 01.02.2018, the application would be allowed. However,



on account of non compliance of the said order dated 01.02.2018, the application came to be dismissed on 02.02.2018. Challenging both orders, these civil revision petitions have been filed before this Court.

2.It is the case of the revision petitioners that 1st defendant and her father Chellasamy approached the plaintiff Bank for education loan to pursue B.Sc., Nursing Course and executed equitable mortgage in favour of the Bank by depositing the deed in respect of the property of 16.750 cents with building. It is the further case of the petitioners that a loan amount of Rs.1,40,000/- was sanctioned by the Bank with a condition to complete the loan amount within 60 months from March, 2007.

3.The petitioners state that while so, the father of 1st revision petitioner died in the year 2007 and defendants, including the 1st defendant/1st revision petitioner inherited the property and due to non payment of Rs.4,09,340/- and an exparte order was passed in the suit and the subsequent application was also dismissed as narrated above.

4.In I.A.No.48 of 2017 filed by the revision petitioners, a counter affidavit was filed by the plaintiff/Bank, in which, in Paragraph No.6, it has been inter alia stated as follows:

"The plaintiff Bank namely State Bank of Travancore merged with State Bank of India from 1.4.2017 as such the plaintiff bank is known as State Bank of India. Further, State Bank of India, Palliyadi Branch intimates that the loan account No.57056373011 stands in the name of Pency and her father Chellaswamy has been taken over by Reliance Asset Recovery Company and copy of intimation is produced herewith. As such the plaintiff Bank has no claim against the defendants regarding the outstanding dues in the said account."

5.A perusal of the counter affidavit would clearly unfold the fact that the State Bank of Travancore already got merged with State Bank of India with effect from 01.04.2017 and it was duly intimated that the loan Account No.57056373011, granted in the name of Pency and her father late Chellaswamy was also taken over by Reliance Asset Recovery Company. In support of the same, a copy of intimation has been produced. To be more brief, it was admitted by the Bank itself that there is no claim as of now against the defendants and in other words, there is no outstanding dues payable by the revision petitioners to the Bank.

6.Admittedly, the suit was originally filed by the State Bank of Travancore, which was subsequently merged with the State Bank of India and as on date, the State Bank of India, Palliyadi Branch, is the correct Bank to proceed against the petitioners/defendants. Therefore, it is vividly clear that no claim could be made by the State Bank of India, Palliyadi Branch, as the State Bank of India is not a party to the suit and as such, in



the considered opinion of this Court, the suit itself is not maintainable and is liable to be dismissed.

7. In the result,

a) these Civil Revision Petitions are allowed and the judgment and decree passed in I.A.No.48 of 2017, dated 02.01.2018 and 02.02.2018 are set aside and the judgment and decree in O.S.No.245 of 2013, dated 30.03.2016 also set aside on the ground that the plaintiff himself had admitted that there is no claim against the petitioner/defendant.

b) Liberty is granted to the State Bank of India, Palliyadi Branch of the Reliance Asset Recovery Company to proceed further, if so advised, against the revision petitioners/defendants in the manner known to law. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (Crl.Side)

/True copy/

Sub Assistant Registrar

To

The Sub Court,
Padmanabhapuram.

C.R.P. (NPD) (MD) No.439 and 812 of 2018
16.04.2018

am/ar

RAM/JC/SAR 2/22.06.2018/3P/2C