



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.766 of 2016

and

C.M.P. (MD) No.3819 of 2016

Vasanthi

...Petitioner/1st Respondent/
Plaintiff

vs

1.The Lakshmi Vilas Bank Ltd.,
Rep. By its Branch Manager,
Kathapparai Branch,
No.1/268/1, Salem Main Road,
Kathapparai,
Vennaiimalai Post,
Karur-639 006.

...Petitioner/Petitioner/
3rd Party

2.P.Surendra Babu
3.P.Kanagaraj

...Respondents 2 & 3/
Respondents 2 & 3/Defendants

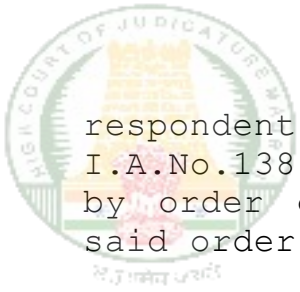
PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 07.08.2015 in I.A.No.138 of 2014 in O.S.No.120 of 2004 on the file of the Principal District Court, Karur.

For Petitioner: Mr.V.Balaji
For R1 : Mr.S.Devaraj
For R2 : Mr.N.Shanmuga Selvam
For R3 : No Appearance

ORDER

The revision petitioner is the plaintiff in O.S.No.120 of 2004 on the file of the Principal District Court, Karur. It is a suit for specific performance.

2.The case of the revision petitioner is that in respect of the suit property, the original defendants 1 and 2 had executed a sale agreement in her favour. It appears that during the pendency of the suit proceedings the said defendants had created mortgage deed in favour of the first respondent bank. The first



respondent, wanting them to get impleaded in the suit, filed I.A.No.138 of 2014. The Court below allowed the said application by order dated 07.08.2015. Questioning the correctness of the said order, this Civil Revision Petition has been filed.

3. Heard the learned counsel on either side.

4. It is not in dispute that during the pendency of the suit proceedings, which was instituted as early as on 14.06.2004, the transaction of mortgage took place. It will attract the doctrine of *lis pendens*. The revision petitioner is not seeking any relief against the first respondent bank. Therefore, the presence of the first respondent bank, who is only a mortgagee, is not necessary to adjudicate the issue raised in the main suit.

5. In this view of the matter, the order impugned in this Civil Revision Petition is set aside and this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

Sub Assistant Registrar (CS-III)

To

1. The Principal District Judge,
Karur.

2. Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO MR.S.DEVARAJ, ADVOCATE IN SR NO.81362
+ 1 CC TO MR.V.BALAJI, ADVOCATE IN SR NO.81366
+ 1 CC TO MR.K.GOVINDARAJAN, ADVOCATE IN SR NO.80954

TA

BU/RP/SAR-III :17.10.2018 : 2P/7C