

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2019

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice C.SARAVANAN

O.S.A.No.413 of 2018

V.Ravikumar

.. Appellant

Vs

1.Marathon Electric India Private Limited
having Subordinate and Branch Office at
No.6 (Old No.37), Arcot Road,
Vadapalani, Chennai - 26.

2.Devie and Co., rep. by its Proprietor
S.Kumar

3.S.Kumar

4.M/s.Rajeswari Credits
rep. by its Partner S.Thiagarajan

5.M/s.Sree Lakshmi Devi Investments
rep. by its Partner S.Thiyagarajan

6.M/s.Swarnalakshmi Credits
rep. by its Partner S.Kandasamy

.. Respondents

Prayer: Appeal preferred under Order XXXVI Rule 11 of O.S.
Rules r/w Clause 15 of Letters Patent against the order dated
09.10.2017 made in A.No.3295 of 2017 in C.S.No.158 of 2004.

Prayer in A.No. 3195 of 2017 : Application praying to impleaded
the applicant as a 6th Defendant in C.S.No. 158 of 2004.

For Appellant ... Mr.S.Gopinathan

For Respondents

.. Ms.Jaishree Kannan
for M/s.Surana and Surana for R1
Mr.M.Aravind Subramaniam
for R2 & R3

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant, who is the applicant in A.No.3295 of 2017, who was initially the power holder of the third defendant and subsequently alienated part of the property in favour of the third parties, while himself purchasing some other portion of the suit property.

2.The suit is filed for recovery of money on a mortgage. Mortgage deed is not disputed by the appellant himself. In fact, in para 3 of the affidavit filed in support of the application, the existence of the mortgage and the liability either to be discharged by the third defendant or by the appellant has been tacitly acknowledged. It appears that portion of the property has been sold through the appellant power holder and the said purchaser has also been impleaded as a party defendant in the same suit. The object is to avoid multiplicity of proceedings. We have to see it accordingly from the point of view of the plaintiff. Inasmuch as the appellant himself acknowledged the mortgage and liability, we deem it appropriate to allow the application filed by the appellant so that any decree passed will have a binding effect on the parties including the appellant.

3.In such view of the matter also and taking note of the fact that the purchaser of the portion of the property, which was sold by the appellant as power agent of the third defendant also got impleaded as party defendant in the suit, this Original Side Appeal stands allowed. Consequently, the order of the learned single Judge stands set aside and the application in A.No.3295 of 2017 stands allowed. No costs.

4. Taking into consideration the long pendency of the suit, we request the learned single Judge to make an endeavour to dispose of the suit within a period of four months.

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Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

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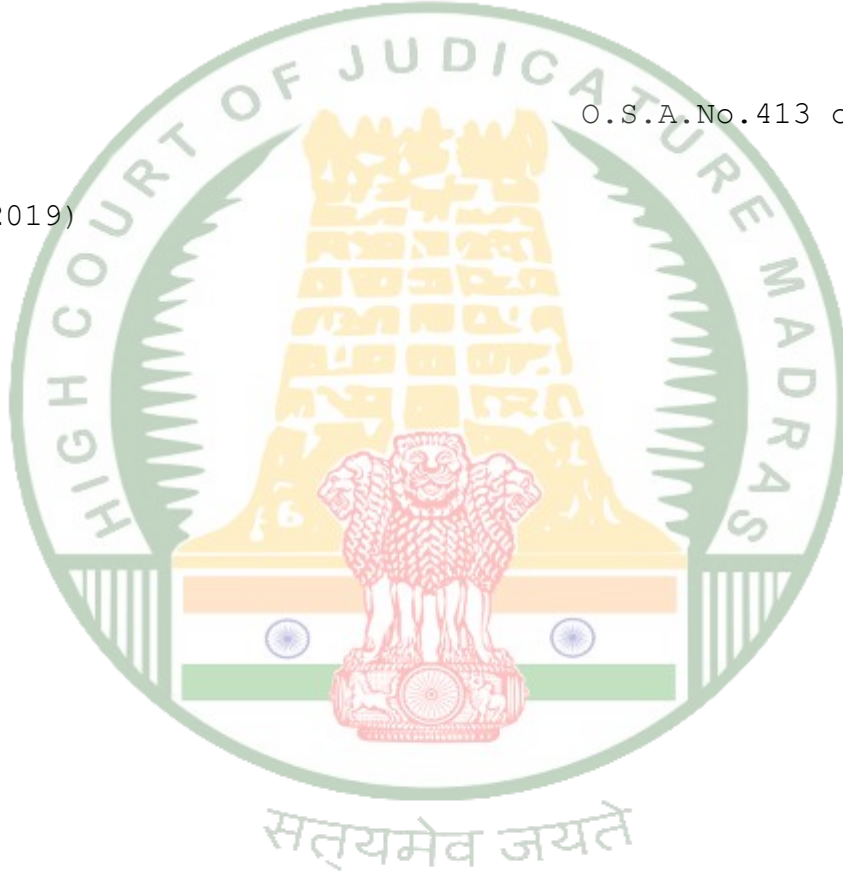
To

The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.Arvind Subramanian, Advocate, S.R.No. 36458
+2cc to Mr.S.Gopinathan, Advocate, S.R.No. 35725
+1cc to Mr.Surana & Surana Advocate, S.R.No. 35737

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SSV(CO)
GN(22/05/2019)



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