



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2019

CORAM:

THE HONOURABLE **MRS.JUSTICE S.RAMATHILAGAM**

C.R.P (PD) (MD)No.2540 of 2018

and

C.M.P. (MD)No.11179 of 2018

WEB COPY

S.Thirumoorthy

... Petitioner/Petitioner/
Petitioner/Creditor

Vs.

1.N.Sagunthala

2.S.Vinoth

3.P.Shanmugham

4.P.Periyasamy

5.S.Vasantha

6.P.Elangoven

R.Shanmugham (Died)

7.K.K.Ganesan

8.M/s.Tamil Yarns,

A Registered Firm,

Rep, by its one of the Managing Partners,

N.Sathish, S/o.M.Nagaraj,

Doing business at:

9A, Sengunthapuram 3rd Cross,

Chinnapalli Street,

Karur Town, Karur Taluk.

9. N.Sathish

10.K.Ramasamy

11.The Karur Vysya Bank Ltd.,

Central Branch,

Office at: No.65, Jawahar Bazaar,

Karur-639 001.

Rep., by its Senior Manager.

12.Minor S.Dhanveer,

S/o.Late.R.Shanmugham,

Re[resented by guardian-aunt,

Manimegalai,

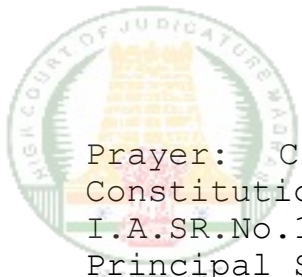
W/o.Ramasamy,

Bharathiar Street,

Vadivel Nagar,

Andankoil East, Karur-2.

... Respondents/Respondents/
Respondents/Debtors,Purchasers,
Power agents



Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside and number the application in I.A.SR.No.15284 of 2018 in I.P.No.35 of 2013 on the file of Principal Sub-Court, Karur dated 23.10.2018.

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For Petitioners : Mr.M.P.Senthil
For R2 : Mr.N.Vijayarajan
For R3 : Mr.M.Saravanan

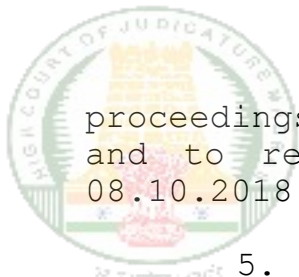
ORDER

This petition has been preferred to set aside and number the application in I.A.SR.No.15284 of 2018 in I.P.No.35 of 2013 on the file of Principal Sub-Court, Karur dated 23.10.2018.

2. The petitioner herein contended that he had filed an application in I.P.No.35 of 2013 before the Principal Sub-Court, Karur for staying all proceedings in the said I.P till the disposal of the petitions to restore the I.P.No.44/2013 in SR.No.14766 of 2018 dated 08.10.2018, which was dismissed for default on 28.11.2017.

3. The petitioner contended that he has filed the main petition in I.P.No.35 of 2013 against the respondents as an insolvent, annulling and cancelling the sale deed dated 22.05.2013, created by the first respondent in the name of the second respondent, vesting 'B' schedule assets with the Official Receiver, Karur and other reliefs. He further contended that during the pendency of the above main petition, it is informed by his associates that the first respondent has created a sham and nominal documents styled as sale deed dated 10.09.2013 in the name of the respondents 4 and 5 with her power agent Elangovan, who is the sixth respondent in respect of item 2 of the B schedule assets, which has been already included at the time of filing of the above I.P. Therefore, the petitioner filed a petition in I.A.No.255/2014 to impleade the respondents 4 to 6 as respondents 4 to 6 in the main petition.

4. It is also contended by the petitioner that the first respondent and the respondents 4 to 6 have conclusively created the above alleged sale deed dated 10.09.2013 in respect of 2nd item of the B schedule assets in the above I.P. The 7th respondent in I.A has filed I.P.No.44 of 2013 to adjudge the first respondent in the said I.A as an insolvent. Hence, the grievance of the petitioner is that I.P.No.35 of 2013 filed by the petitioner was dismissed. The 7th respondent in I.A namely K.K.Ganesan filed I.P.No.44 of 2013 was also dismissed for default on 28.11.2017. Further, grievance of the petitioner is that both the I.P.Nos.35 & 44 of 2013 has to be tried jointly, since the parties in both the petitions are same and the property also 'B' schedule property. Hence, the



proceedings in I.P.No.35 of 2013 has to be stayed till the disposal and to restore I.P.No.44 of 2013 in SR.No.14766 of 2018 dated 08.10.2018.

5. On the other hand, the learned counsel for the respondents 2 & 3 argued that in no way the petitioner would prejudice in trying the cases separately.

6. It is the grievance of the petitioner that both the I.A & I.P have to be tried together, otherwise the petitioner will be put into inconvenience, since the first respondent and the respondents 4 to 6 were collusively created the alleged sale deed.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents 2 and 3.

8. In view of the arguments advanced on either side and considering the fact that parties in both the petitions are same in 'B' schedule property and the said I.P.No.44 of 2013 which was dismissed for default has to be restored and proceed along with I.P.No.35 of 2013, this Court is of the view that the ends of justice would be met if the proceedings in I.P No. 35 of 2013 and I.P. No. 44 of 2013 are tried together. Therefore, the trial Court is directed to take the case in I.P.No.44/2013 in SR.No. 14766 on file which was dismissed for default on 28.11.2017 and consider the same on merits and thereafter, the trial Court is directed to try both I.Ps together and pass orders on merits.

9. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Crl. Side)

/TRUE COPY/

Sub Assistant Registrar

dss

To

1. The Principal Sub-Court,
Karur.
2. The Record keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)



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+1. C.C. to M/S.M.P.SENTHIL, Advocate SR.No. **54874**

+1. C.C. to M/S.R.SUBRAMANIAN, Advocate SR.No. **54852**

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JM/14.10.2019/4P/6C