

A.No.4507 of 2015
in
O.P.No.207 of 2013

P.T.ASHA, J.

The above application is filed by the third party seeking to implead themselves as a party in the above Original Petition.

2. It is the case of the applicant that on 30.11.2013, after the award passed by the learned Arbitrator and the challenge to the award by the respondents 1 to 4 herein, the applicant and the fifth respondent had entered into an assignment, in and by which, the fifth respondent had assigned its various assets including loans and underlying securities to the applicant herein and by virtue of the above assignment, the applicant stepped into the shoes of the fifth respondent.

3. The respondents 1 to 4 herein had filed a counter *inter alia* contending that the deed of assignment is an unregistered document and therefore, the applicant cannot be impleaded on the basis of an unregistered document.

4. Mr.D.Pradeep Kumar, arguing on behalf of the applicant would contend that the assignment with reference to the loan, namely, the money claim does not require registration and the same can be severed and the applicant is making only a money claim and therefore, the contention of the respondents 1 to 4 that the applicant cannot be impleaded, is totally erroneous. He would also argue that after the assignment, installments have been made to the applicant by the respondents 1 to 4 herein. Further, proceedings under the SARFAESI Act had also been initiated and the respondents 1 to 4 have also participated in the same and this would clearly indicate that they were much aware that the applicant is a necessary party and the person, who is entitled to the money claim.

5. Per contra, Mr.T.S.Rajeev Gandhi representing M/s.N.V.S.Associates appearing on behalf of the respondents 1 to 4 would contend that the applicant cannot make any claim under the mortgage deed, since the deed of assignment is not registered.

6. Heard the learned counsels and perused the materials available on record.

7. It is no doubt true that the document in question, namely, deed of assignment dated 30.11.2013 is not registered, though assignment is both with reference to the money claim as well as underlying security. However, taking note of the submission of the learned counsel for the applicant that they do not intend to enforce the claim against the security on the basis of the deed of assignment and also taking note of the fact that the applicant has stepped into shoes of the original claimant, they are proper and necessary parties to the proceedings. Hence, the application is allowed, taking note of the above submissions of the learned counsel for the applicant. The petitioners in O.P are directed to carry out the necessary amendment.

07.01.2020

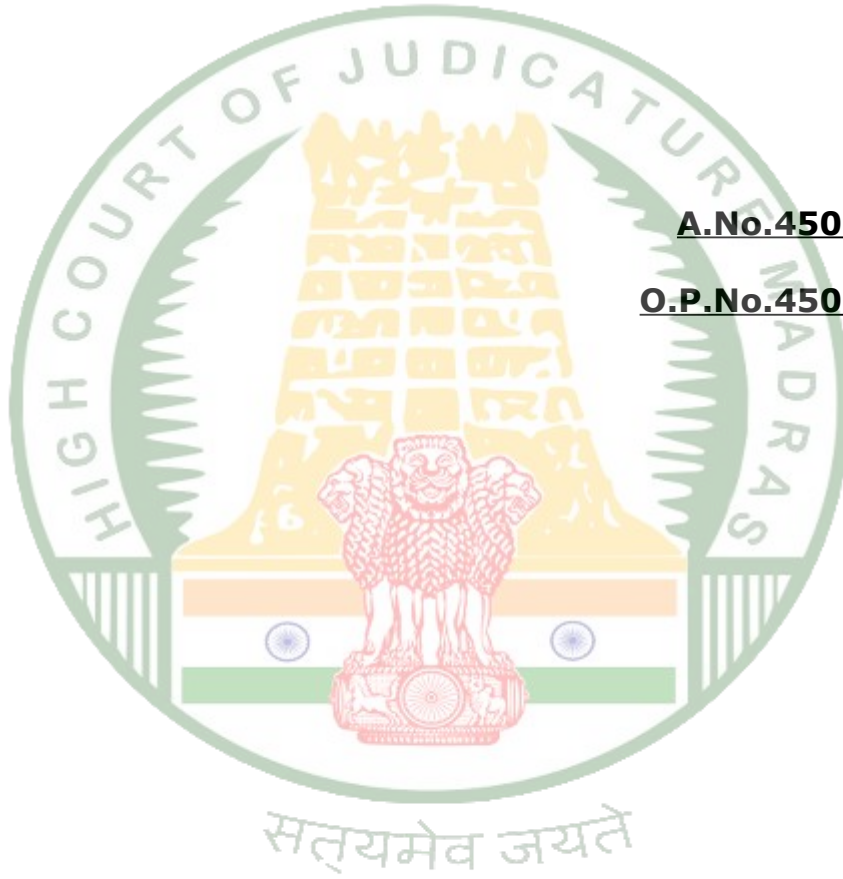
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