

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.01.2020

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(NPD).No.2644 of 2010

1.S.Krishnaswamy
2.S.Varadharaj
3.S.Senthil

... Petitioners

Versus

1.M/s.Feena Petro Products Ltd.,
Rep.by its Executive Director
A.S.K.Neuton
622, Mount Road,
Chennai - 600 006.

2.M/s.Saravana Finance Pvt.Ltd.,
Rep.by its Managing Director
Mr.P.Saravanan
R.P.Towers, I Floor,
No.88, Coimbatore Road,
Pollachi - 642 002.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, pleaded to direct the Lower Court to number the suit filed by the petitioners/plaintiffs in C.F.R.No.4493 of 2010 on the file of the District Munsif Court, Pollachi and dispose of the same in accordance with law.

For petitioners : Mr.R.Nilavazhagan

For Respondents : Mr.K.Ponmani (for R2)
for Mr.T.Murugamanikkam

: No Appearance - R1

ORDER

This Civil Revision Petition has been filed against the order dated 21.07.2010 passed in C.F.R.No.4493 of 2010, whereby, the Trial court returned the suit filed by the plaintiff on the ground of maintainability . The suit was filed for a declaration of title of the plaintiffs and injunction restraining the defendants 1 and 2 from interfering with their alleged possession of the property.

2.According to the plaintiff averments, the plaintiffs are in possession of the property and they have executed a sale deed dated 05.10.1995 in favour of the first defendant and in respect of the same possession is with the plaintiffs since there is a dispute with respect to non-payment of sale consideration. While so, the plaintiffs received a notice dated 22.04.2010 directing them to deliver possession of the property to the Dena Bank, Nungambakkam Branch, Chennai by referring to the order passed in Debt Recovery Tribunal O.A.No.109 of 2005 as the first defendant committed default in payment.

3.Subsequently, the suit property was auctioned by the Debts Recovery Tribunal in which the second respondent herein is the successful auction purchaser. A recovery certificate No.106 of 2005 was also issued to the second defendant as he is the successful bidder. Taking note of the

factual position, the District Munsif Court has rightly observed that the Civil suit is barred when proceedings have been initiated before the Debts Recovery Tribunal and therefore, returned the plaint. As against such return endorsement the Civil revision petition is filed.

4.In view of the specific bar contained under Section 17 & 18 of SARFAESI Act, the suit has not been numbered by the Trial court and I do not find any reason to interfere with the same, hence, the Civil revision petition is dismissed. No costs.

10.01.2020

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klr

To

The District Munsif Court, Pollachi.

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RMT.TEEKAA RAMAN,J.,

klt



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