



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28..01..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CIVIL REVISION PETITION NO.274 OF 2020

AND

C.M.P.NO.1423 OF 2020

V.Narayana Rao

... Petitioner/Petitioner/
Plaintiff

-Versus-

1. K.Lokesh Viswanathan

.. 1st Respondent/1st Respondent/
Defendant

2. The Area Manager,
LIC Housing Finance Limited,
No.54/36, K.B.S. Motors,
Katpadi Road, Vellore.
3. The Manager,
LIC Corporate Office,
LIC Housing Finance Limited,
No.131, Market Tower 'F' Premises,
13th Floor, Cuffe Parade,
Mumbai 400 005.

4. The Manager,
LIC Registered Office,
LIC Housing Finance Limited,
Bombay Life Building, 2nd Floor,
No.45/47, Veer Nariman Road,
Fort, Mumbai 400 001.

... Respondents 2 to 4/
Respondents 2 to 4/
Proposed Parties 2 to 4

Petition filed under Article 227 of the Constitution of India, praying to set aside the order dated 17.09.2019 made in I.A.No.539 of 2018 in O.S.No.259 of 2014 by the learned Principal District Munsif, Vellore.

For Petitioner

: Mr.Ajimath Begam



ORDER

This revision petition is directed against the order dated 17.09.2019 passed by the learned Principal District Munsif, Vellore, dismissing the application filed by the petitioner seeking to implead the respondents 2 to 4 as party defendants in the suit in O.S.No.259 of 2014.

2. The petitioner is the plaintiff. He has filed the above said suit for permanent injunction against the 1st respondent. Pending suit, a proceedings has been initiated under The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (also known as the SARFAESI Act) against the 1st defendant by the proposed defendants 2 to 4. Alleging that he is in possession of the property, the petitioner has come up with the application under revision seeking impleadment of the respondents herein as defendants to the suit. That application was dismissed by the court below. Challenging the same, the plaintiff in the suit is before this court with the instant revision petition.

3. This civil revision petition is coming up today for admission. I have heard the learned counsel for the petitioner and also perused the records carefully.

4. The learned counsel for the petitioner would submit that the petitioner has been in possession of the property in question and by virtue of a fraudulent sale deed obtained the 1st defendant appears to have mortgaged the property with the respondents 2 to 4. Now, a proceedings has been initiated under SARFAESI Act and possession notice has also been issued. Since the petitioner is in possession of the property, by virtue of possession notice, the respondents 2 to 4 are trying to disturb the possession of the petitioner. Hence, the petitioner wanted to implead them as party defendants in the suit for permanent injunction.

5. Admittedly, there is a sale deed in favour of the 1st respondent. However, the contention of the petitioner is that the sale deed has been fraudulently obtained by the 1st defendant in respect of the property in question and subsequently based on such fraudulent sale deed, the 1st petitioner had created mortgage over the property in question. Now, a proceedings has been initiated under SARFAESI Act against the 1st defendant. It could also be seen from the records that possession notice has been issued to the 1st defendant. The petitioner who has been in possession of the property in question asserts that he has been in possession of the property and by virtue of possession notice, his possession is sought to be disturbed by the respondents 2 to 4 and therefore, they are



just and necessary parties to the suit proceedings. Admittedly, proceedings under SARFAESI has been initiated. If at all the petitioner has got any grievance over the same, the remedy for the petitioner lies elsewhere and not before the civil court. By impleading the proposed defendants as party defendants, the petitioner wanted to get injunction against the bankers. It is not permissible in law and the only remedy available to the petitioner is to approach the appropriate forum to workout his remedy. Considering the facts and circumstances of the case and th legal position, the court below has rightly dismissed the application in which this court does not find any infirmity. Thus, the revision fails and the same deserves only to be dismissed.

In the result, the civil revision petition is dismissed. No costs. Consequently, connected CMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The Principal District Munsif,
Vellore, Vellore District.

+lcc to Mr.Ajimath Begam, Advocate, S.R.No.6652

C.R.P.No.274 of 2020

BR(CO)
CS/13/07/2020