

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.747 of 2013
and M.P.Nos.1 of 2013 and 1 of 2014

1.S.R.Ravichandran

2.S.R.Chandra Nirmala

.. Petitioners/Plaintiffs

Vs.

1.SK.R.Devaraj

2.S.R.Navaneetham

3.M/s.Vetrivel Enterprises
Represented by its Proprietrix
Mrs.Sujatha

4.The Authorised Officer
The South Indian Bank Ltd.
Registered Office at
Trichy Road Branch
Coimbatore – 18.

5.The South Indian Bank Ltd.
Gandhipuram branch
Coimbatore Represented by its Manager

6.The Manager, Bank of Baroda

7.Unnikrishnan

8.Sivan

9.M.Anburaj Kishore

10.P.Rangarajan .. Respondents/Defendants

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 21.01.2013 made in I.A.No.54 of 2013 in O.S.No.34 of 2013 on the file of the IV Additional District Court, Coimbatore.

For Petitioners : Mr.C.Deivasigamani

For Respondents : No appearance

ORDER

The matter is heard through “Video-Conferencing”.

The Civil Revision Petition is filed against the fair and decretal order dated 21.01.2013 made in I.A.No.54 of 2013 in O.S.No.34 of 2013 on the file of the IV Additional District Court, Coimbatore.

2.The petitioners are the plaintiffs and respondents are the defendants in O.S.No.34 of 2013 on the file of the IV Additional District Court, Coimbatore. The petitioners filed the said suit for partition and for declaring the Power of Attorney deed dated 16.02.2006 as null and void and for permanent injunction. The petitioners along with the suit filed I.A.No.54 of 2013 for temporary injunction. On 11.01.2013, notice was ordered returnable by 21.01.2013. In the said petition, the respondents 4 and 5 entered appearance and opposed for grant of injunction. The learned Judge after hearing both the counsel for the petitioners and respondents, held that the documents are required to decide the issue and directed the parties to file their counter affidavit along with the documents if any and adjourned Interlocutory Application to 13.02.2013.

3.Against the said order dated 21.01.2013 made in I.A.No.54 of 2013 in O.S.No.34 of 2013, the petitioners have come out with the present Civil Revision Petition.

4.The learned counsel appearing for the petitioners contended that the petitioners have made out prima facie case for granting injunction. The learned Judge has accepted the contentions of the counsel for the respondents 4 and 5 and adjourned the case to 13.02.2013 without going through the merits of the petition. The order of the learned Judge adjourning the petition is arbitrary and unreasonable and prayed for allowing the Civil Revision Petition.

5.Though notice has been served on the respondents 3, 6, 8 and 10 and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel.

6.Though the respondents 1, 2, 4, 5, 7 and 9 have entered appearance through their counsel, there is no representation on behalf of them when the matter is taken up for hearing.

7.Heard the learned counsel appearing for the petitioners and perused the entire materials available on record.

8.The grievance of the petitioners is that even though the petitioners have made out prima facie case for granting injunction, pending suit, the learned Judge erroneously did not grant any interim order but adjourned the petition for further hearing. From the materials on record, it is seen that the petitioners have filed suit not only for partition, but also for declaration that the registered Power of Attorney dated 16.02.2006 alleged to have executed by the petitioners is forged by the 1st respondent and to declare the same as null and void. Based on the said Power of Attorney, the 1st respondent created a mortgage by deposit of title deeds. The petitioners have to prove this contention by letting in acceptable evidence before the Court. The learned Judge did not dismiss petition but adjourned the case for further hearing for considering the case. There is no error in the said adjournment of the learned Judge warranting interference by this Court.

9.In the result, the Civil Revision Petition stands dismissed.

Consequently, connected Miscellaneous Petitions are closed. No costs.

23.09.2020

Index : Yes/No
kj

To

The IV Additional Judge
District Court, Coimbatore.

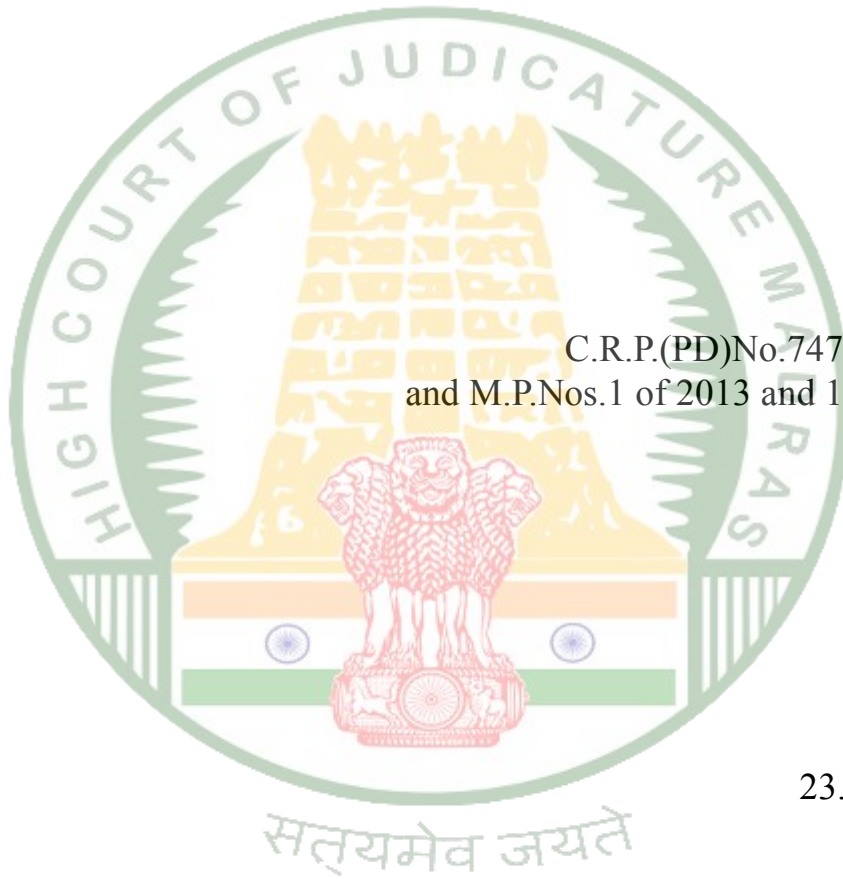


WEB COPY

C.R.P.(PD)No.747 of 2013

V.M.VELUMANI, J.

kj



C.R.P.(PD)No.747 of 2013
and M.P.Nos.1 of 2013 and 1 of 2014

23.09.2020

WEB COPY