

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 11TH DAY OF AUGUST, 2021

THE MASTER

A.D.Nos.22145 to 22149 of 2021

and

E.P.No. 71 of 2017

E.P.No. 71 of 2017:-

Russell Credit Limited

32, J.L.Nehru Road,

Kolkatta – 700071

West Bengal.

...Decree Holder/Plaintiff

Vs.

1.M/s.Ravi Shankar Industries Pvt. Ltd,

(Formerly known as Ravi Shankar Films Private Limited)

2,Sarngapani Street, T.Nagar,

Chennai-600017.

Represented by its Managing Director

2.Mr.A.Manohar Prasad,

60, Third Main Road, Gandhi Nagar,

Chennai – 600 020.

3. Mr. Mukund Vijayan,

3,Sarangapani Street,

T.Nagar, Chennai – 600 017.

... Judgemnet Debtor / Defendants

Execution Petition praying that this Hon'ble Court be pleased to direct the 3rd judgment debtor / 3rd Defendant to execute the sale deed of the schedule mentioned property in favour of the Plaintiff under order XXI Rule 34 of CPC failing which the

officer of this Court may execute the sale deed on behalf of the 3rd Judgment Debtor.

A.D.Nos.22145 to 22149 of 2021:-

Asset Reconstruction Company India Limited

Acting in its capacity as

Trustee of Acril SBPS – 023 – III Trust and

Arcil SBPS – 024-II Trust

The Ruby, 10th Floor 29,

Senapati Bapat Marg, Dadar (West)

Mumbai – 400 028.

...Third Party Applicant

Vs.

1.Russell Credit Limited

32, J.L.Nehru Road,

Kolkatta – 700071

West Bengal.

... 1st Respondent /Petitioner

2.M/s.Ravi Shankar Industries Pvt. Ltd,

(Formerly known as Ravi Shankar Films Private Limited)

2,Sarngapani Street, T.Nagar,

Chennai-600017.

Represented by its Managing Director

(In liquidation and represented by the Official Liquidator,

Corporate Bhavan,

Chennai – 600 001.)

3.Mr.A.Manohar Prasad,

60, Third Main Road, Gandhi Nagar,

Chennai – 600 020.

4. Mr. Mukund Vijayan,

3,Sarangapani Street,

T.Nagar, Chennai – 600 017.

... Respondents 2 to 4 / Respondents 1 to 3

5.M/s.Anandram Developers Private Limited,
Represented by its Liquidator Ms.Santhanam Rajashree,
No.45 & 47, Arcot Road,
Saligramam,
Chennai – 600 093

6.Bharani Properties and Developers Private Limited
No.45 & 47, Arcot Road,
Saligramam,
Chennai – 600 093 ... Proposed Respondents

A.D.No.22145 of 2021:-

Application Diary Number praying that this Hon'ble Court be pleased to recall the order passed in E.P.No. 71/ 2017 dated 16.10.2019.

A.D.No.22146 of 2021:-

Application Diary Number praying that this Hon'ble Court be pleased to pass an order of canceling the registration of Doc.No.501/2020 dated 07.01.2020. At SRO Virugambakkam pertaining to the property morefully described in schedule to the Judge's Summons.

A.D.No.22147 of 2021:-

Application Diary Number praying that this Hon'ble Court be pleased to pass an order of Interim Injunction against the respondent 1 to 4 herein in any manner encumbering the schedule mentioned property either by themselves or throughout their agents which is registered as Doc.No:501/2020 dated 07.01.2020 at SRO

Virugambakkam morefully described in schedule -B to the Judge's Summons.

A.D.No.22148 of 2021:-

Application Diary Number praying that this Hon'ble Court be pleased to permit the Applicant to implead the proposed Respondents as Respondent No. 5 and 6 in the present application.

A.D.No.22149 of 2021:-

Application Diary Number praying that this Hon'ble Court be pleased to grant leave to the applicant to maintain this application.

This Execution Petition alongwith these Application diary numbers coming on this day before this court for hearing, The court made the following order:-

There are five applications in D.Nos22145 to 22149 of 2021 filed before the Registry for numbering and the same have been placed before this court for its maintainability.

1) The first application is to recall the order passed in E.P.No.71/2017 dated 16.10.2019. This court being an executing court is empowered to execute the decree presented for execution only. When an order has been pronounced by this court, it can be challenged by way of appeal or revision. This court has no authority to recall or modify the order which has been already passed. The court cannot rewrite

its own order which was already passed.

2) The second application is to pass an order cancelling the registered deed in Doc.No.501 of 2020 executed on 07.01.2020. A Sale Deed is a bilateral deed which can be cancelled by the consent of both parties that is by the buyer and seller. If any one of the parties to the document or a 3rd party wants to cancel the registration, they have to approach the competent Civil court for cancellation of deed.

3) The third application is to grant for interim injunction against the respondent not to encumber the property in any way. Temporary injunctions can be granted either before Judgment or after Judgment by only the trial courts.

4) The fourth application is to implead the proposed respondents. There is no proceeding pending before this court and the execution application was already disposed. Hence this court cannot entertain this application.

5) The fifth and final application is to grant leave to the petitioner to maintain these applications. The petitioner is not a party to the proceedings and the proceedings were already completed and execution application was already disposed. Hence this applicant cannot maintain this application before the executing court.

Further this court has executed the decree as ordered by the trial court

and execution application was disposed of. This court has become functus officio and no application is maintainable before this court. In fine all the above said five applications are ordered to be returned.

Sd./-MASTER

11/08/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

EVK 20/12/2021