

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.452 of 2021

in

A.No.5358 of 2018

Tamilnad Mercantile Bank Ltd.,
Verkizhambi Branch,
Rep by its Authorised Officer
No.3 – 130/47B, Main Road,
Chanivillai, Mekkamandapam (PO)
Verkizhambi – 629166

... Applicant

Vs.

1.M/s.Cholamandalam Investment and
Finance Company Limited,
Dare House, No.2, N.S.C.Bose Road,
Parrys, Chennai – 600 001.

2.Mr.Robinson GT

... Respondents

Prayer: Judges summon under Order XIV Rule 8 of OS Rules R/w
Section 151 of CPC to raise the order of attachment made in the
application No.5358 of 2018 dated 28.03.2019 in respect of the
properties 2, 3 and 4.

For Applicant : Mr.V.Chandrasekaran

For Respondent 1: Mr.Santhosh Nagarajan

ORDER

The above application is filed by a third party Bank stating that they have a mortgage in respect of the properties described as Item nos. 2, 3 and 4 of the schedule to A.No.5358 of 2018 and in exercise of their rights they have also initiated proceedings under the SARFAESI Act and the properties have also brought to sale in auction held on 25.09.2019.

2. Since this Court had already passed an order of attachment, the Sub Registrar, Thuckalay, Kanyakumari declined to register the sale certificate, prompting the applicant / third party to file the Writ Petitions before the Madurai Bench of the Madras High Court in W.P.MD.Nos.23896, 23914 and 23916 of 2019. The Bench by order dated 13.11.2019 was pleased to direct the Sub Registrar, Thuckalay,

Kanyakumari to register the sale certificate and had directed the applicant to move this Court for raising the order of attachment. On perusing the letter of sanction and the mortgage deed which is mortgaged by deposit of title deeds dated 10.12.2015, it is clear that the properties had been mortgaged in favour of the applicant in the year 2015 itself. It is only items 2 to 4 which is the subject matter of mortgage with the Bank. There is no impediment for the attachment to continue with reference to the 1st item of the property.

3. Consequently, the application for raising the attachment is ordered in respect of item nos.2 to 4 of the schedule to A.No.5358 of 2018. The attachment will continue to the 1st item of the property. The application in A.No.452 of 2021 is disposed of on the above lines.

Internet : Yes/No
Index : Yes/No
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P.T. ASHA. J,

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