

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2021

CORAM

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

C.R.P.(PD)No.317 of 2021

1.Valli
2.G.Govindammal
3.Minor L.Keetha Priya
4.Minor L.Visali
(Minors Rep. by their mother
and natural guardian Valli, 1st defendant)

... Petitioners

B.Chitibabu

Vs.

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Judgment and Decree dated 09.03.2020 passed in I.A.No.1/2019 in O.S.No.200/2016, on the file of the learned Principal District Judge, Kancheepuram at Chengalpet.

For Petitioners : Mr.D.Rajagopal
for T.Sreelekha

ORDER

This matter is taken up through Web hearing.

2.This Civil Revision Petition has been filed against the order dated 09.03.2020 passed in I.A.No.1/2019 in O.S.No.200/2016, on the file of the learned Principal District Judge, Kancheepuram at Chengalpet, in and by which the application filed under Order VII Rule 11 (a) CPC, seeking to reject the plaint, came to be dismissed.

3.The respondent herein is the plaintiff in O.S.No.200 of 2016 filed for recovery of suit amount against the petitioners herein based on promissory notes and mortgage deed executed by the late G.Lakshmanan who is the husband of the 1st petitioner and father of the petitioners 3 & 4 and son of the 2nd petitioner. During the pendency of the suit, the petitioners/defendants herein have come forward with the above said I.A.No.1/2019 seeking to reject the plaint on the ground that they were not aware of the facts regarding money dealings between the respondent and the husband of the 1st petitioner; that the claim of the plaintiff is an

unsecured debt and the same ceases on the death of the debtor; that the plaintiff does not disclose any cause of action against the petitioners.

4.Resisting the above I.A.No.1/2019 the plaintiff/respondent, stating that the petitioners are well aware of the financial transactions done by the late G.Lakshmanan and having borrowed the amount and mortgaged the property, the debtor had died without repaying the same and since the petitioners have inherited the immovable property, they are liable to clear debts made by the debtor.

5.The Court below has considered the all aspects of the matter and come to the conclusion that the petitioners/defendants have not made out any case to entertain the I.A.No.1/2019 the Trial Court was of the view that the grounds raised by the petitioners to reject the plaintiff, cannot be considered at this stage but the same can be decided as preliminary issues and during the course of trial.

6.Though the learned counsel for the petitioners reiterated the contentions which were already canvassed before the Court below, this

Court is unable to appreciate the same. It is the specific case of the respondent/plaintiff that the husband of the 1st petitioner borrowed certain amounts and executed pro-notes and mortgage deed by pledging the immovable property and died without repaying the debts. It is also specific case of the respondent/plaintiff that the petitioners have inherited the immovable property left by the deceased borrower. Therefore, when the deceased having borrowed the amounts and died leaving behind the immovable property which was inherited by the petitioners, the respondent/plaintiff can claim recovery of his money as against the petitioners. Though it is well settled law that a Hindu Widow, being statutory heir only, cannot be made personally liable for the liabilities of her husband, the 1st petitioner/plaintiff can agitate the same. It is pertinent to note that the petitioners came forward with the I.A.No.1/2019 after the commencement of the cross examination of P.W.1. As rightly held by the Court below that all the aspects of the matter viz., the plaint does not disclose any cause of action, that the mortgage deed is unregistered, the petitioners were not aware of the transactions etc., can be very well decided during the Course of full fledged trial. Therefore, this Court does not find any reason to interfere with the order passed by the Court below in order to

entertain the present Revision Petition.

7. Accordingly, the Civil Revision Petition fails and the same is dismissed. No Costs.

12.03.2021

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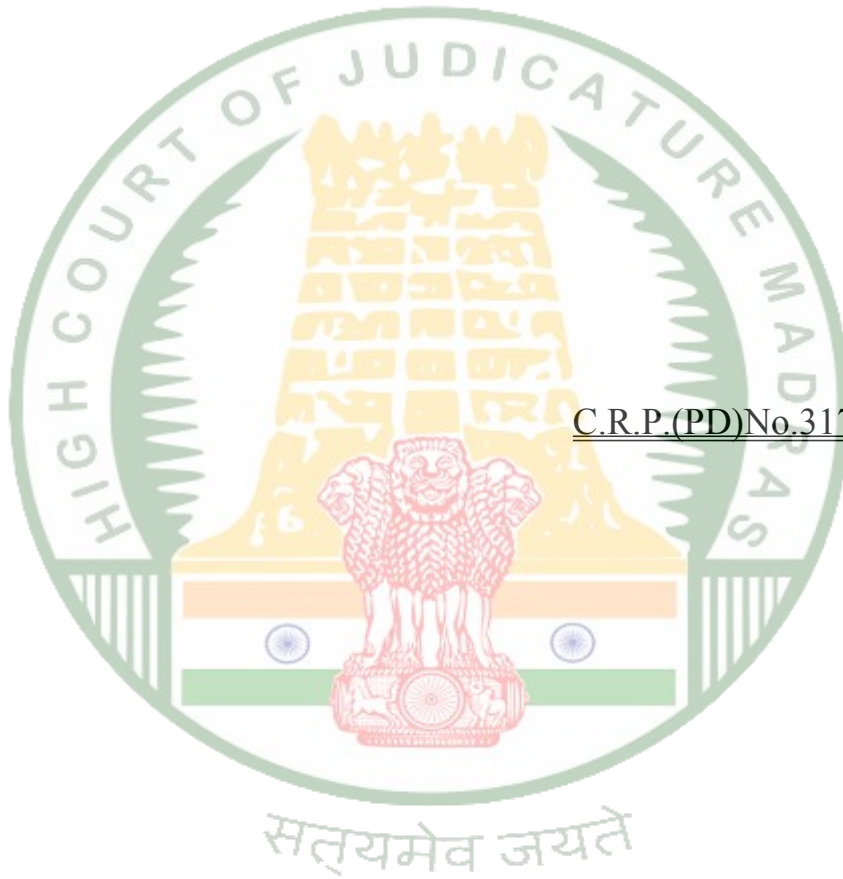
Index : Yes/No
Speaking / Non-speaking order



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V.BHAVANI SUBBAROYAN. J.

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