



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 29th DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

Tr.C.S. No.179 of 2019

1.Mrs.Saritha Agarwal,
W/o Mr.Sathyapal Agarwal,
No.3, B5, Adeswar Apartments,
4th Floor, Audiappa Street,
Purasawalkam,
Chennai – 600 084.

2.Mr.Sathyapal Agarwal,
S/o Mr.Ramvilas Agarwal,
No.3, B5, Adeswar Apartments,
4th Floor, Audiappa Street,
Purasawalkam,
Chennai – 600 084.

... Plaintiffs

-Versus-

1.M/s.Royapuram Citizen's Benefit Fund Ltd.,
No.146, Surya Narayana Chetty Street,
Royapuram, Chennai – 600 013.
presently at
No.23, Play Ground View Road,
Nandanam,
Chennai – 600 035.

2.M/s Alwin & Co.,
Auctioneers,
No.260 (Old No.204), 1st Floor,
Thambu Chetty Street,
Chennai – 600 001.

... Defendants



WEB COPY Transfer Civil Suit praying that this Hon'ble Court may be pleased to pass a Judgment and Decree:

a) For declaration declaring the auction notice Nil dated issued by the 2nd Defendant on behalf of the 1st defendant fixing the date of auction of the suit property on 10.1.2017 is null and void.

b) To Grant a decree permanent Injunction restraining the Defendants or their men, agent from bringing the suit schedule property into public auction or private sale on 10.01.2017 or on any subsequent dates.

c) To direct the Defendants to pay the cost of the suit.

This Transfer Civil Suit coming on this day before this court for hearing in the presence of Mr.P.J.George, Advocate for the plaintiffs herein and Mr.J.R.K.Bhavanantham, Advocate for the defendants herein and upon reading the plaint filed herein and the learned counsel for the plaintiffs having submitted that in view of the fact that the mortgagee has given up his right under section 69 of the Transfer of Property Act, and vide his decision to pursue his remedy otherwise in C.S.No.310 of 2017, he considers that he is not ready and willing to prosecute C.S.No.179 of 2019 and **it is ordered:-**



WEB COPY That the Tr.C.S.No.179 of 2019 be and is hereby dismissed as withdrawn.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
29th DAY OF JULY 2021.

Sd/-
ASSISTANT REGISTRAR (Comm.Cases)
//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.



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26.08.2021

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Tr.C.S. No.179 of 2019

ORDER

DATED : 29.07.2021

THE HON'BLE MR. JUSTICE
N.SESHASAYEE

FOR APPROVAL: 26.08.2021

APPROVED ON: 26.08.2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM : JUSTICE N.SESHASAYEE

C.S.No.179 of 2019

1.Saritha Agarwal
2.Sathyapal Agarwal

... Plaintiffs

Vs.

1.M/s.Royapuram Citizen's Benefit Fund Ltd.,
No.146, Surya Narayana Chetty Street
Royapuram, Chennai – 600 013.
Presently at :
No.23, Play Ground View Road
Nandanam, Chennai – 600 035.

2.M/s.Alwin & Co.,
Auctioneers
No.260 (Old No204) I Floor
Thambu Chetty Street
Chennai – 600 001.

... Defendants

PRAYER : Civil Suit filed under Order VII Rule 1 of Civil Procedure Code to pass a judgment and decree:

A) declaring the auction notice Nil dated issued by the second defendant on behalf of the first defendant fixing the date of auction of the suit property on 10.1.2017 is null and void.

B) to grant a decree of permanent injunction restraining the defendants or their men agent from bringing the suit



schedule property into public auction or private sale on
10.01.2017 or on any subsequent dates

C) to direct the defendants to pay the cost of the suit.

For Plaintiffs : Mr.P.J.George
For Defendants : Mr.J.R.K.Bhavanantham

JUDGMENT

The learned counsel for the plaintiffs submits that in view of the fact that the mortgagee has given up his right under Section 69 of the Transfer of Property Act, and Vide his decision to pursue his remedy otherwise in C.S.No.310 of 2017, he considers that he is not ready and willing to prosecute C.S.No.179 of 2019. Accordingly, C.S.No.179 of 2019 is dismissed as withdrawn.

2. Registry is directed to refund such Court fee as per law to the plaintiffs.

Sd./-N.S.S.J.
29.07.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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