

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.04.2021**

CORAM:

THE HON'BLE MR.JUSTICE **C.V.KARTHIKEYAN**

C.R.P.(PD).No.764 of 2021
and C.M.P.No.6327 of 2021

C.B.Suryanarayanan

.. Petitioner

Vs.

1.C.B.Sankaranarayanan

2.L.Manimozhiarasu

3.C.B.Chandranarayanan

4.The Sub Registrar,
Office of the Sub Registrar,
Gudiyattam,
Vellore District.

.. Respondents

5.The Branch Manager,
Axis Bank,
No.44, V.O.C. Street,
Nadupet, Gudiyattam.

.. Proposed Party

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India, to set aside the fair and decreetal order dated

26.02.2021 made in I.A.No.100 of 2019 in O.S.No.150 of 2018 on the file of the Learned District Munsif Court, Gudiyattam.

For Petitioner : Mr.N.Manoharan

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 26.02.2021 made in I.A.No.100 of 2019 in O.S.No.150 of 2018 on the file of the Learned District Munsif Court, Gudiyattam.

2. The plaintiff, first and third defendants are brothers. They had the benefit of inheriting the suit property. However, various events had happened leading to the necessity by the plaintiff to institute a suit in O.S.No.150 of 2018 before the District Munsif Court at Gudiyattam, seeking a Judgment and a Decree in the nature of a declaration to set aside a sale deed dated 17.06.2010 executed by the first defendant in favour of the second defendant and also for a declaration to set aside a sale deed dated 25.10.2013 which was executed by the second defendant in favour of the

first defendant. Both the sale deeds related the same property. The suit is pending. Written statement had been filed by the first and second defendants. At that stage, the petitioner / plaintiff herein filed I.A.No.100 of 2019 under Order 1 Rule 10(2) of the Code of Civil Procedure seeking permission to implead the proposed party as a fifth defendant, the Branch Manager of Axis Bank, Gudiyattam.

3. The reason for impleading the said Branch Manager as a defendant was that the first defendant was making arrangements to borrow a loan of Rs.50 Lakhs from the said Bank by mortgaging the suit property by way of deposit title deeds. This application came up for consideration before the learned District Munsif at Gudiyattam and by an order dated 26.02.2021, the learned District Munsif had thought that it was a fit case for dismissal and accordingly dismissed the said application. It had been very specifically observed that the application has been filed on the basis of apprehension. Further, no documents had been filed by the petitioner herein to substantiate the said apprehension that the first defendant was making arrangements for getting loan from the Axis Bank.

4. I do not find any reason to interfere with the order. The petitioner has filed the application in I.A.No.100 of 2019 purely on apprehension. Probably the petitioner hopes that if the Branch Manager is impleaded as a defendant he may not come forward to offer loan or receive the title deeds of the property as security. That is not a reason to be advanced in Judicial Proceedings. At the most, even if mortgage is executed by the first defendant, the Branch Manager can be a witness in the Judicial Proceedings indicating the documents which had been executed. He need not be a defendant in the suit.

5. Order 1 Rule 3 is very clear. The plaintiff should allege a series of transactions against the defendants which give rise to a cause of action. There is no cause of action as against the proposed defendant. It is only a normal course for Banks to advance loans on receipt of title deeds. They cannot be the parties in the suit. This petition is devoid on merits. This petition is dismissed. I have find no reasons and no grounds to interfere with the order complained.

6. With the above observations, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

07.04.2021

Index : Yes / No
Web : Yes / No
rna

To

The District Munsif Court,
Gudiyattam.

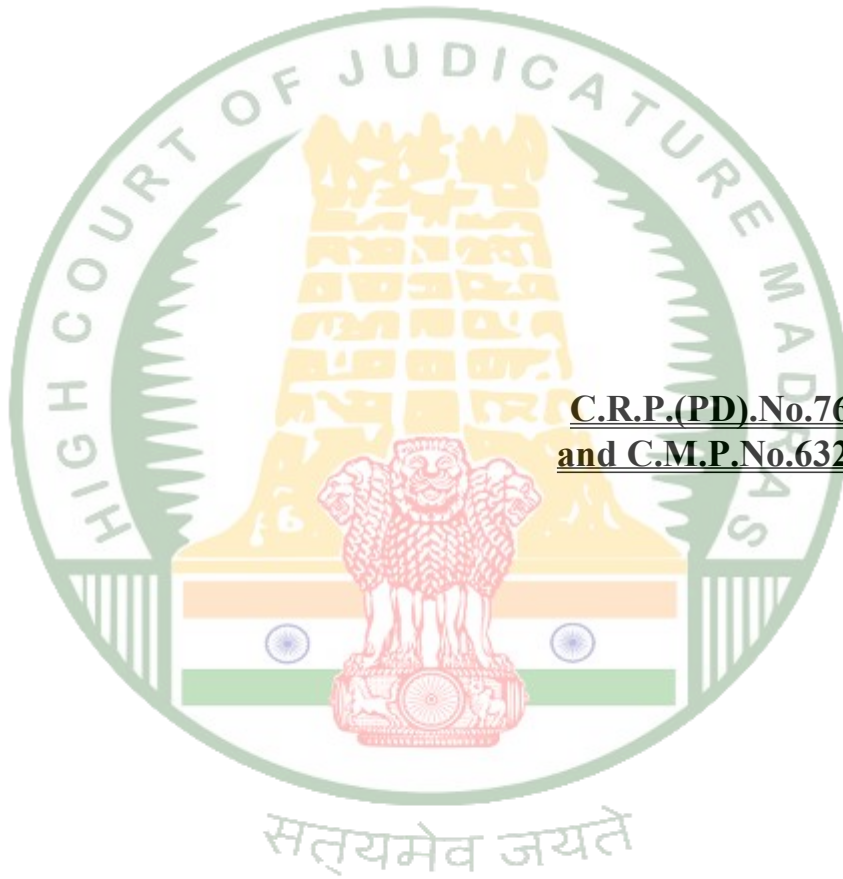


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C.V.KARTHIKEYAN, J

rna



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