IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Civil Appellate Jurisdiction )

Tuesday, the Twenty Fourth day of August Two Thousand Twenty One

PRESENT

THE HON`BLE MR JUSTICE T.RAJA

AND

THE HON`BLE MR JUSTICE V.SIVAGNANAM

C.M.P.NOS.4547 OF 2018 & 4009 OF 2019 IN W.A.NO.59 OF 2016
AND C.M.P.NOS.4548 OF 2018 & 4003 OF 2019 IN W.A.NO.60 OF 2016

1 ARUN BUILDERS PVT LTD . PETITIONER in CMP Nos.4547, 4548/2018

2 FASHION BUILDERS PVT LTD

3 INCOME BUILDERS PVT LTD

4 GOOD NEIGHBOURS PVT LTD

5 INFOVISION PVT LTD

ALL HAVING HEIR OFFICE
AT NO. 21-D C.V. AMAN ROAD
ALWARPET CHENANI -600 018 AND
RESP BY THIER AUTHORISED SIGNATORY
MR D. GOPIHANDRAN

GREAT LAKES MULTI-STATE ..PETITIONERS in CMP Nos.4003,4009/2019
COOPERATIVE HOUSING SOCIETY LIMITED REP. BY
ITS CHIEF EXECUTIVE OFFICER S.SAKTHIVEL
S/O.SAMUTHIRAVELU NO.76/190 SOUTH CAR
STREET SRIVILLIPUTTUR IN
VIRUDHUNAGAR DISTRICT

Vs

1 S.P. VELAYUTHAM ... RESPONDENTS in CMP No.4547 of 2018
S/O.SABAPATHY NO.5 SABARISALAI MADIPAKKAM
CHENAI - 91

2 ASSET RECONSTRUCTION
COMPANY (INDIA) LIMITED
REP. BY ITS MANAGER
MR.NIRAVPAREK THE RUBY
10TH FLOOR SENAPATI BAPATMARG DADAR (WEST)
MUMBAI - 400 028

3 THE INSPECTOR GENERAL
OF REGISTRATION NO.100 SANTHOME HIGH ROAD
CHENNAI - 28

4 THE SUB REGISTRAR
ALANDUR 12 1ST MAIN ROAD NANGANALLUR
CO- OPERATIVE SOCIETY LIMITED NANGANALLUR
CHENNAI - 61

5 K.S.DEENADAYALU REDDY
S/O.LATE K.P.SRIRAMULU REDDY
NO.9 VEMBULISUBEDAR STREET ALANDUR
CHENNAI - 16

6 K.VENKATAKRISHNAN
S/O.DHEENADAYALU REDDY
NO.9 VEMBULISUBEDAR
STREET ALANDUR CHENNAI - 16

7 V.AMAR S/O.S.P.VELAYUTHAM
S/O.SABAPATHY
NO.5 SABARISALAI MADIPAKKAM
CHENNAI - 91

1 V. AMAR ... RESPONDENTS in CMP No.4548 of 2018
S/O.S.P.VELAYUTHAM
S/O. SABAPATHY
NO.5 SABARISALAI MADIPAKKAM CHENNAI - 91

2 ASSET RECONSTRUCTION
COMPANY (INDIA) LIMITED
REP. BY ITS MANAGER
MR.NIRAVPAREK THE RUBY
10TH FLOOR SENAPATI BAPATMARG DADAR (WEST)
MUMBAI - 400 028

3 THE INSPECTOR GENERAL
OF REGISTRATION
NO.100 SANTHOME HIGH ROAD
CHENNAI - 28

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ALANDUR 12 1ST MAIN ROAD NANGANALLUR
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CHENNAI – 16

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S/O.DHEENADAYALU REDDY
NO.9 VEMBULISUBEDAR
STREET ALANDUR CHENNAI - 16

7 S.P.VELAYUTHAM
S/O.SABAPATHY
NO.5 SABARISALAI MADIPAKKAM
CHENNAI - 91

1 V. AMAR ... RESPONDENTS in CMP No.4003 of 2019
S/O.S.P.VELAYUTHAM NO.5 SABARI SALAI
MADIPAKKAM CHENNAI-600091 AND 6 OTHERS

2 ASSET RECONSTRUCTION COMPANY
(INDIA) LIMITED REP. BY ITS MANAGER THE
RUBY 10TH FLOOR SENAPATHI BAPAT MARG DADAR
(WEST) MUMBAI-400028

3 THE INSPECTOR GENERAL OF REGISTRATION
NO.100 SANTHOME HIGH ROAD
CHENNAI-600028

4 THE SUB-REGISTRAR-ALANDUR
12 1ST MAIN ROAD NANGANALLUR COOPERATIVE
SOCIETY LIMITED NANGANALLUR CHENNAI-600061

5 K.S.DEENADAYALU REDDY
S/O.LATE K.P.SRIRAMULU REDDY
NO.9 VEMBULI SUBEDAR STREET ALANDUR
CHENNAI-600016

6 K.VENKATAKRISHNAN
S/O.DHEENADAYALU REDDY
NO.9 VEMBULI SUBEDAR STREET ALANDUR
CHENNAI-600016

7 S.P.VELAYUTHAM
S/O.SABAPATHY
NO.5 SABARI SALAI
MADIPAKKAM CHENNAI-600091

1 S.P.VELAYUTHAM ... RESPONDENTS in CMP No.4009 of 2019
S/O.SABAPATHY
NO.5 SABARI SALAI
MADIPAKKAM CHENNAI-600091
AND 6 OTHERS

2 ASSET RECONSTRUCTION COMPANY
(INDIA) LIMITED
REP. BY ITS MANAGER THE RUBY 10TH FLOOR
SENAPATHI BAPAT MARG DADAR
(WEST) MUMBAI-400028

3 THE INSPECTOR GENERAL OF REGISTRATION
NO.100 SANTHOME HIGH ROAD
CHENNAI-600028

4 THE SUB-REGISTRAR-ALANDUR
12 1ST MAIN ROAD NANGANALLUR COOPERATIVE
SOCIETY LIMITED NANGANALLUR
CHENNAI-600061

5 K.S.DEENADAYALU REDDY
S/O.LATE K.P.SRIRAMULU REDDY
NO.9 VEMBULI
SUBEDAR STREET ALANDUR CHENNAI-600016

6 K.VENKATAKRISHNAN
S/O.DHEENADAYALU REDDY
NO.9 VEMBULI
SUBEDAR STREET ALANDUR
CHENNAI-600016

7 V.AMAR
S/O.S.P.VELAYUTHAM
NO.5 SABARI SALAI
MADIPAKKAM CHENNAI-600091

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

1. CMP No.4547 of 2018
To implead the petitioners as Party Respondents Nos 8 to 12 in the above W.A. No. 59 of 2016

2. CMP No.4548 of 2018
To implead the petitioners as party Respondents Nos 8 to 12 in the above W.A. No. 60 of 2016

3.CMP No.4009 of 2019
To implead the Petitioner Society as one of the Respondents in W.A.No.59 of 2016 in W.P.No.33462 of 2014

4. CMP No.4003 of 2019
To implead the Petitioner Society as one of the Respondents in W.A.No.60 of 2016 in W.P.No.33462 of 2014

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.N.RAMAKRISHNAN, ADVOCATE FOR M/S.WARAON & SAI RAMS, Advocate IN CMP.NO.4547, 4548 OF 2018 AND OF TMT.T.KOKILAVANE, ADVOCATE IN CMP.NOs.4003 and 4009 of 2019 for the petitioner and of MR.ANIRUDH KRISHNAN, ADVOCATE FOR 1st Respondent and of MR.T.ARUNKUMAR, GOVERNMENT ADVOCATE FOR 2 & 3 Respondents and of MR.M.L.RAMESH, ADVOCATE FOR 5th Respondent and of MR. A. JENASENAN, ADVOCATE on behalf of the 6th Respondents in CMP.NOs.4003 and 4009 of 2019 the court made the following order:-



(Common Order of the Court was made by **V.SIVAGNANAM, J.,**)

The petitioners in all the Civil Miscellaneous Petitions are before this Court with a prayer to implead them as respondents in the above stated Writ Appeals respectively.

2.Since both the Writ Appeals are interlinked, common order is passed and for the sake of convenience, the parties are referred as per their rank in the Civil Miscellaneous Petitions.

3.Learned counsel for the petitioners in C.M.P.Nos.4547 of 2018 & 4009 of 2019 in W.A.No.59 of 2016 have submitted that the petitioners are the Power of Attorney holders of various individuals/companies, who are the absolute owners of approximately 150 Grounds of lands comprised in S.Nos.16 to 19 & 21 of Alandur Village valued at approximately Rs.400 Crores. Out of the said land, an extent of approximately 120 Grounds of land were mortgaged to the Indian Bank, since 1988 and subsequently, the Indian Bank assigned the secured financial assets including the mortgaged properties in favour of the Asset Reconstruction Company India Limited (hereinafter referred as “the ARCIL”), Mumbai by a Deed of Assignment dated 07.12.2007.

4.Learned counsel for the petitioners would further contend that the Indian Bank had initiated proceeding under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter referred to as “the SARFAESI Act”) against the mortgaged extent of lands and had also taken possession of the properties under Section 13(4) of the SARFAESI Act. Subsequently, the Indian Bank had assigned the debts together with the underlying assets (mortgaged property) to the 2nd respondent herein (the ARCIL) during December 2007. Thereafter, the ARCIL had stepped into the shoes of Indian Bank as a Mortgagee of the said properties.

5.Learned counsel for the petitioners would further submit that the 2nd respondent herein / the AIRCIL, filed a Writ Petition in W.P.No.33462 of 2014 seeking a Writ of Certiorarified Mandamus to quash the Sale Deed dated 05.07.2007 executed by the 7th respondent in favour of the 1st respondent/appellant, registered as Document No.2179 of 2007 on the file of the 4th respondent herein and to consequently direct the 4th respondent to remove the entry made as Document No.2179 of 2007 in Book-I, in the office of the Sub-Registrar, Alandur, Chennai. The above Writ Petition was allowed by a learned Single Judge of this Court by an order dated 04.01.2016 holding that the sale deed is null and void in a writ proceedings, and against which, the present Writ Appeal No.59 of 2016 has been filed by the 1st respondent.

6.Learned counsel for the petitioners would further submit that the petitioners being the absolute owners of the properties in question, they are necessary parties and without hearing them, if any order is going to be passed in W.A.No.59 of 2016, it will cause serious hardship and prejudice to their right and hence, they may be impleaded as party respondents in Writ Appeal No.59 of 2016.

7.Learned counsel for the petitioners in C.M.P.Nos.4548 of 2018 & 4003 of 2019 in W.A.No.60 of 2016 would submit that in the impugned sale deed dated 05.07.2007 in Document No.2179 of 2007 on the file of the Sub Registrar, Alandur, a vacant site in S.No.16/18 to an extent of 50 Cents at Alandur Village in Kanchipuram District, which is in possession and enjoyment of the petitioner Society, was also included. Hence, according to the learned counsel, without hearing the petitioners, if any order is going to be passed in W.A.No.60 of 2016, it will cause serious hardship and prejudice to their right and hence, they may be impleaded as party respondents in Writ Appeal No.60 of 2016.

8.The 1st respondent in C.M.P.Nos.4547 of 2018 and 4009 of 2019 in W.A.No.59 of 2016 filed a counter affidavit thereby raising serious objection in impleading the petitioners in the above Writ Appeals.

9.According to the learned counsel for the 1st respondent, he is the absolute owner of the land admeasuring to an extent of about 9.92 acres comprised in Survey Numbers 13,16 to 21 of Alandur Village, Town Survey Nos.33 and 34 of Block No.18, Town Survey Nos.43, 44 of Block No.19, and Town Survey Nos.4, 6/1, 6/2, 6/3,6/4, 8, 9, 10, 11, 12, 13, 14, 15, 16/1, 16/2, 17/1, 17/2, 21, 38, 39 and 42 of Block No.20, Ward H, Alandur Town, Alandur Taluk, Chennai District. The said land originally belonged to one, Mr.Loganatha Reddiar, who had mortgaged the same in favour of Sriramulu Reddiar, by way of Mortgage Deed dated 28.09.1929, registered as Document No.1631 of 1929, on the file of the Sub Registrar, Saidapet and thereafter, conveyed the said entire extent of land in favour of the said Sriramulu Reddiar, by way of a Sale Deed dated 22.12.1937, registered as Document No.2061 of 1937, on the file of the Sub Registrar, Saidapet. Further, the said Sriramulu Reddiar died intestate on 23.04.1979, leaving behind his son, K.S.Deenadayalu Reddiar as his legal heir, who had duly inherited the rights and interests of his father, Mr.Sriramulu Reddiar in the above said land and continued to be in possession and enjoyment of the same. The said K.S.Deenadayalu Reddiar along with his son, K.Venkatakrishnan had appointed the 1st respondent as his power of attorney agent vide Power of Attorney Deed dated 23.08.2006, registered as Document No.2115 of 2006, on the file of the Sub Registrar, Velachery, thereby authorizing the 1st respondent herein to deal with the above said property. Since the said power of attorney require a written consent of the principal for selling the property, another notarized General Power of Attorney Deed dated 07.06.2007 was executed by the said K.S.Deenadayalu Reddiar and his son, K.Venkatakrisnan, thereby authorizhing the 1st respondent to sell the above said property. By virtue of the above said power of attorney, the said land was conveyed to in favour of the son of the 1st respondent, Mr.V.Amar by way of a Sale Deed dated 05.07.2007, registered as Document No.2179 of 2007, on the file of the Sub Registrar, Alandur. Subsequently, the said Mr.V.Amar had settled the aforesaid land in favour of the 1st respondent vide Settlement Deed dated 13.10.2008, registered as Document No.2881 of 2008, on the file of the Sub Registrar, Alandur.

10.Learned counsel for the 1st respondent would further contend that during the year 2010, several miscreants, including one, Pankajam, claiming to be the wife of one Mr.Ramasamy Reddiar, along with her henchmen namely, Thirumaniselvam and others had attempted to grab the aforesaid land by unlawful means and pursuant to which, proceedings under Section 145, Cr.P.C., were initiated by the Revenue Divisional Officer, Tambaram in MC.Na.Ka.No.4761/2009/C., wherein an order was passed on 01.04.2010 confirming the possession and enjoyment of the entire extent of land in favour of the 1st respondent with a further direction to work out their respective claim before the Civil Court of law. Although the said order was challenged by the said Thirumaniselvam acting on behalf of the said Pankajam by way of revision petition before this Court in Crl.R.C.No.613 of 2020, and the same was dismissed as withdrawn, the order passed by the Revenue Divisional Officer, Tambaram, in MC.Na.Ka.No.4761/2009/C has also been confirmed by this Court in Crl.R.C.No.760 of 2010, by way of an order dated 04.07.2012 and in Crl.O.P.No.27317 of 2012, by way of an order dated 06.11.2014. Further, vide an order dated 27.02.2015 passed in SLP (Crl.) No.838 of 2015, the Hon’ble Supreme Court has also affirmed the said finding of the Revenue Divisional Officer, Tambaram by directing the rival claimants to approach the appropriate Civil forum to establish their rights. Further, one Ravikumar claiming to be in occupation of the land as a tenant of the 7th respondent herein, had preferred a collusive suit in O.S.No.704 of 2009 on the file of the learned District Munsif, Alandur, and the same was also dismissed by the Civil Court in the following lines:

> “The plaintiff had not come to the Court with clean hands and hence the suit is dismissed as vexatious.”

11.Thereafter, the said Pankajam had created a fraudulent sale deed dated 02.05.2011 with respect to an extent of 18 cents, comprised in Survey No.16/7, which forms part of the above said land in favour of one, M/s Polycab Wires Private Limited, represented by one, Ashok Bagla and the same was registered as document No.147 of 2011, on the file of the Sub Registrar, Alandur. The said Pankajam had further created another sale deed dated 31.08.2012 with respect to an extent of 50 cents, comprised in Survey No.16/18, T.S.No.6/3, which forms part of the above said land in favour of the petitioners herein and the same was registered as document No.853 of 2013, on the file of the Sub Registrar Joint-I, Thenkasi, and the said sale deed has not been registered by the Sub Registrar.

12.Learned counsel for the 1st respondent would further contend that the said Pankajam is an impersonator and has got no connection either with the above said land or with the said 'Ramasamy Reddiar'. Thus, an FIR was registered as against the said Pankajam as well as the 'Chief Executive Officer' of the impleading petitioner in C.M.P.No.4009 of 2019 herein namely, Sakthivel and other offenders on 10.10.2014 in Crime No.155 of 2014, on the file of the Central Crime Branch ALGSC-II, Chennai, pursuant to the direction issued by the learned Judicial Magistrate, Alandur in Crl.M.P.No.9351 of 2013 dated 19.09.2014 and the investigation is still pending.

13.Learned counsel for the 1st respondent would contend that the impleading petitioners have no right or title over the properties in question and it is only a calculated attempt to fish out of troubled waters by seeking to implead them in the present Writ Appeals. If at all the impleading petitioners have any semblance of right over the properties in question, the same has to be established in the manner known to law before the appropriate Civil Court. According to learned counsel, the petitioners herein are mere land grabbers and their motive is only to grab the properties in question by creating bogus documents.

14.Learned counsel for the 1st respondent would further contend that during the year 1990, the impleading petitioners herein, commonly referred to as MVR Group of Companies, claiming themselves to be the power of attorney agents of several individuals, had indulged in a large scale bank fraud by colluding with the Indian Bank officials, including its then Chairman, M.Gopalakrishnan. The impleading petitioners are the benami companies of one, Mr.M.V.Raja @ M.Varadarajulu @ Louis Raja, who had done the entire bank frauds, thereby swindled huge amount of public money. In fact, the CBI and other agencies had registered several cases incriminating the impleading petitioners, the said M.Varadarajulu and the Indian Bank officials, which have ended in conviction. Further, the alleged mortgage in favour of the Indian Bank has been fraudulently created by colluding with the then Chairman-cum-Managing Director of Indian Bank, Mr.M.Gopalakrishnan and other bank officials, in order to swindle huge amount of public money. The said conspiracy has been investigated by the Central Bureau of Investigation (CBI), and pursuant to a full fledged trial in C.C.No.36 of 1998, on the file of the Principal Special Judge for CBI Cases, Chennai, the accused have been convicted for offences of cheating Indian Bank in manipulating and fabricating fake and false documents to get SOD from the Indian Bank, under various penal provisions including Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 and Sections 420, 467, 468, 471 and 120-B, IPC by judgment dated 11.06.2019.

15.Further, the purported mortgage created by the impleading petitioners herein in favour of the Indian Bank over the above said land is devoid of any actual title and is nothing but an off shoot of a larger criminal conspiracy to siphon-off public money. Further, despite the criminal prosecutions initiated by CBI, which confirms a larger conspiracy between the impleading petitioners and the Indian Bank officials to misappropriate public funds, the ARCIL, has purchased the debt payable to Indian Bank by entering into a Deed of Assignment with the Indian Bank and has been attempting to usurp the above said land from the 1st respondent by one way or other.

16.Further contention of the 1st respondent is that, the impleading petitioners have no right or title over the above said properties and are merely trying to fish out of troubled waters by seeking to implead themselves in the present Writ Appeals. On one hand, the impleading petitioners claim that they are the power of attorney holders of the purported owners and on the other hand, they claim that they themselves are the actual owners of the properties. The claims put forth by the impleading petitioners lack bonafide and is clearly intended to mislead this Court and thus, pleaded to dismiss these miscellaneous petitions with cost.

17.Learned counsel for the 2nd respondent/the AIRCIL, submitted that the 2nd respondent herein approached this Court by filing writ petition in W.P.No.33462 of 2014 seeking to set aside the action of the 4th respondent /the Sub Registrar, Alandur, acting in gross violation of law and thereby exceeding his powers in registering an alleged sale deed dated 05.07.2007. This Court after careful consideration of all the facts and circumstances involved in the present case and the provisions of the Registration Act allowed the above Writ Petition as prayed for thereby quashed the said sale deed registered as Doc No.2179 of 2007 dated 05.07.2007 on the file of the 4th respondent. However, against the said order, the 1st respondent herein has filed the present Writ Appeal in W.A.No.59 of 2016.

18.Further, learned counsel for the 2nd respondent / the AIRCIL, would submit that the petitioners herein are not necessary parties to the present proceedings, as to determine the present *lis* it would suffice to look into two documents, i.e., the power of attorney dated 23.08.2006 bearing Doc No.2115 of 2006 illegally executed by the 5th and 6th respondents in favour of the 1st respondent which did not assign right of alienation or encumbrance without the written consent of the principals and the Impugned Sale Deed dated 05.07.2007 bearing Doc.No.2179 of 2017 entered into between the 1st respondent and the 7th respondent based on the power of attorney which did not assign the right of alienation or encumbrance without the written consent of the principal. Therefore, the present *lis* is merely concerned to the validity of these documents. Hence, the present petitioners are neither proper parties nor necessary parties hence, there is no compelling situation for the Court to impleading them as parties to the present Writ Appeals.

19.Heard the learned counsel on either side and also perused the materials available on record.

20.The only question that needs to be decided in these miscellaneous petitions is, 'whether the petitioners herein are necessary and proper parties to decide the Writ Appeals which were filed challenging the order of the learned Single Judge of this Court in W.P.No.33462 of 2014, in which the correctness of the two documents, i.e., power of attorney dated 23.08.2006 bearing Doc.No.2115 of 2006 executed by the 5$^{th}$ and 6$^{th}$ respondents in favour of the 1$^{st}$ respondent (in C.M.P.Nos.4547 of 2018 and 4009 of 2019 in W.A.No.59 of 2016) and in consequence of the power of attorney, the impugned sale deed dated 05.07.2007 bearing Doc.No.2179 of 2019 executed by the 1$^{st}$ respondent in favour of the 7$^{th}$ respondent in C.M.P.Nos.4547 of 2018 and 4009 of 2019 in W.A.No.59 of 2016, is the subject matter.

21.Before we take up this question for decision in detail, the material facts leading to the filing of the Writ Petition may be narrated in short compass:-

21(a)The Indian Bank, Chennai, in the year 1992, had extended financial facilities in favour of borrowers/guarantors known as MVR Group of Companies. In the years 1995 and 1996, the documents of mortgage were executed qua immovable properties for approximate extent of 120 grounds in favour of the Indian Bank. Needless to state that the borrowers/guarantors did not repay the loan.

21(b)Original Applications have been filed in the year 1996 for recovery of money under Recover of Debts Due to Bank and Financial Institutions Act (in short "The RDDBI Act") including sale of mortgaged assets. Thereafter, notice under Section 13(2) of the SARFAESI Act was issued by M/s Indian Bank on 15.12.2004. It was followed by a demand notice dated 27.01.2005. The possession notice was issued on 30.03.2005. The procedure contemplated under the SARFAESI Act has been followed for the above said action.

21(c)At that point of time, respondents 3 and 4 therein executed a registered power of attorney in document No.2115 of 2006 dated 23.08.2006 in favour of 5th respondent therein. The said power deed does not assign right of alienation or encumbrance without the written consent of the principal. Thus, a subsequent power deed dated 07.06.2007 has been executed, though unregistered, duly authorised to get over the same. The registered power deed dated 23.08.2006 though admittedly did not assign the power of alienation or encumbrance, a sale deed dated 05.07.2007 was executed in document No.2179 of 2007 by 5th respondent therein, purportedly being the agent of 3rd and 4th respondents therein, in favour of the 6th respondent therein.

21(d)On 07.12.2007, a deed of assignment was executed by M/s Indian Bank in favour of the petitioner. The sale notice was issued by the petitioner under SARFAESI Act on 05.08.2008 to the mortgazors/borrowers. Thereafter, the 6th respondent therein being the son of the 5th respondent, executed a settlement deed for the very same properties by a registered document dated 13.10.2008 and the writ petition was filed by the petitioner on the sole ground that the registration effected by the 2nd respondent therein is one without authority of law, as admittedly the sale deed dated 05.07.2007 in document No.2179 of 2007 speaks only about the registered power deed dated 23.08.2006, which did not authorize the 5th respondent therein to act as an executant on behalf of the respondents 3 and 4, being the alleged Principal.

22.The ARCIL, represented by its Manager, the 2$^{nd}$ respondent herein had filed the Writ Petition with a prayer to issue a Writ of Certiorarifed Mandamus to call for the records of the 2$^{nd}$ respondent therein culminated in the sale deed dated 05.07.2007, which has been registered as Doc.No.2179 of 2007 Book No.1, registered with S.R.O., Alandur, Chennai, and quash the same and consequentially direct the 2$^{nd}$ respondent therein to remove the entry made as Doc.No.2179 of 2007 in Book I in office of the Sub-Registrar, Alandur, Chennai.

23.The learned Single Judge of this Court after considering the arguments of the learned counsel for the parties has passed the following order:-

> "……….*this Court is of the view that the writ petition as filed will have to be allowed and accordingly, the same is allowed as prayed for. However, it is made clear that this order will not stand in the way of the parties in approaching the appropriate forum, as only the legal issues are dealt with. The question of entitlement of the private respondents in getting the stamp duty payable is also not considered in this writ petition, since no issues have been raised. However, liberty is given to the private respondents to take appropriate action as per law in this regard including the submission of representations to the official respondents, if so advised. Respondent No.2 is granted eight weeks time from the date of receipt of copy of this order to carry out the order passed aforesaid. No costs. Consequently, the connected miscellaneous petitions are closed."*

24.The above said two documents, i.e., power of attorney dated 23.08.2006 in Doc.No.2115 of 2006 and the sale deed dated 05.07.2007 bearing Document No.2179 of 2007 are concerned with the persons viz., the 5$^{th}$ and 6$^{th}$ respondents alone and not concerned with any other third parties.

25.The learned Single Judge of this Court has clearly dealt with the legal issues of the above said two documents and held that the registered power deed dated 23.08.2006 is in specific terms and did not authorise the 1st respondent-S.P.Velayutham, to execute the sale deed in favour of V.Amar. Further, the learned Single Judge has made it very clear that the order will not stand in the way of the parties in approaching the proper forum with regard to their titles over the properties.

26. A person should not be added as a party merely because he would be incidentally affected by the judgment, because impleading a party to a proceeding cannot depend solely on the question, whether he has interest in the suit property, but he should have necessarily an enforceable legal right. Only a person, who has a direct interest in the subject matter of the litigation can be impleaded as a party. In our case, the petitioners are neither a necessary party nor a proper party to the Writ Appeals, therefore, they cannot be allowed to be a party to the Writ Appeal proceedings. Their petitions for impleadment, are therefore misconceived and are liable to be rejected.

27. The impleading petitioner in C.M.P.No.4548 of 2018 was convicted by the CBI Court, Chennai, in C.C.No.36 of 1998, dated 11.06.2019 for offences under Sections 120B r/w 420, 109 r/w420, 467, 471 r/w 467, 468 IPC for cheating Indian Bank to accord sanction of Secured Over Draft (SOD) and creating forged documents and thereby using the same as genuine for obtaining sanction and release of Rs.30 crores. The vital judgment passed by the CBI Court was not even filed by the impleading petitioner, whereas the first respondent filed this document on 03.08.2021. Therefore, the non-filing of this crucial CBI Court judgment convicting the impleading party for various penal provisions under IPC would go to show that the impleading party attempted to take this Court also for granted. The justification given by the learned counsel for the impleading petitioner that after filing this impleading petition, the judgment by the CBI Court was subsequently pronounced on 11.06.2019 is devoid of any merit. When they have a bounden duty to place all the relevant documents, non-filing of this judgment convicting him as A18 to undergo three years Rigorous Imprisonment for three years is unjustified.

28. In respect of impleading party in C.M.P.No.4009 of 2019, it is seen that the Tahsildar, Kilvelur Taluk, Nagapattinam District, issued an enquiry report in Na.Ka.3053/2015/A6, dated 06.05.2015, stating that Pankajam is a resident of Kollupattarai Street, Radhanallur, Neelapadi, Athipuliyur Village, Kilvelur Taluk, Nagapattinam District; that her husband Mr.Ramasamy belonged to Pathar community and died before attaining the age of 40 years; and that the said Mr.Ramasamy Pathar was married to one Sarasu and out of this wedlock, two daughters, namely, Neelavathy and Uma, were born, however, subsequent to the demise of said Sarasu, Mr.Ramasamy Pathar had married the said Pankajam who did not have any issues. The report of the said Tahsildar further says that the said Pankajam has been living under the care of her brother Pakkirisamy in a house constructed by his son-Vijayakumar. The

said Pankajam has been receiving financial assistance under the widow pension scheme for 2 ½ years and neither she nor her husband Ramasamy Pathar own any land in Athipuliyur Village. Thus, from the report of the said Tahsildar, it is clear that the said Pankajam has been falsely claiming as the wife of Mr.Ramasamy Reddiar in order to grab the land in question by forged and fabricated documents, such as Death Certificate and Legal Heirship Certificate of Ramasamy Reddiar from Nagapattinam Taluk. Moreover, electricity consumption card bearing Service No.993, Athipuliyur Distribution Circle, stands in the name of said Pankajam and her identity card issued under the old age pension scheme reflects her husband's name as Ramasamy Pathar.

29. Besides, the report of Tahsildar dated 06.05.2015 and the status report filed by the Additional Deputy Commissioner of Police-III, Central Crime Branch Greater Chennai Police, in Crl.O.P.No.9347 o f2019 show that she has obtained legal heir certificate from Tahsildar, Nagapattinam, on 08.10.2007 to claim the property through Ramasamy Reddiar and thus, this would ultimately depict that the name of her husband as Ramasamy Pathar in one place and as Ramasamy Reddiar in another place. Further, the status report says that she has executed various GPOA, sale agreements, sale deeds and made various transactions over the alleged property as stated below:-

| ***Sl.No.*** | ***S.No.*** | ***Document Type*** | ***Doc.No. & Date*** | ***Executed by*** | ***In favour of*** |
|---|---|---|---|---|---|
| 1. | 16/7 | Sale Agreement | 29.12.2008 | Pankajammal | S.Ravichandran |
| 2. | 16/7 | Sale Agreement | 337/2008 08.02.2008 | S.Ravichandran | Sampath Kumar |
| 3. | 16/7 | GPOA | 328/2008 20.02.2008 | Pankajammal | N.Ramani Kesavamoorthy |
| ........ | .............................................. | | | | |
| 34. | 16/18 | Sale Deed SRO Tenkasi | 08/13 12.06.2013 | Pakkirisami Pankajammal | Sakthivel Great Lakes ultistate Housing Cooperative Society |

30. Moreover, the proceedings passed under Section 145 Cr.P.C. in M.C.No.Na.4761/2009/C, dated 01.04.2010, show that she is no way connected with the land in question, besides, it is further observed that by receiving various payments viz. Rs.50,000/- and Rs.1,00,000/-, she has been executing power of attorney, sale agreement and thereafter, she has engaged in cancellation of such documents informing the person concerned as if she is the owner of the land in question. It is further observed that she has been indulged in such activities with the help of hooligans. Although the proceedings passed under Section 145 Cr.P.C. was put to challenge by one M/s.Infovision Private Limtied, Chennai, the same was dismissed by this Court in Crl.R.C.No.760 of 2010, dated 04.07.2012, and in Crl.O.P.No.27317 of 2012, dated 06.11.2014, and thereafter, when SLP was preferred, the same was dismissed by the Hon'ble Apex Court in SLP(crl.)No.838 of 2015, dated 27.02.2015, confirming the proceedings dated 01.04.2010 of the Revenue Divisional Officer, Tambaram, and thereby directed the parties to approach the competent Civil Court. However, the impleading petitioners have not mentioned anywhere about the aforesaid facts and circumstances of the case, therefore, this would evidently speak that they have come to this Court with unclean hands.

31 This apart, the petitioners in impleading petitions are not the parties in the writ petitions and the scope of the writ petitions was with regard to the action taken by the Sub-Registrar, Alandur, Chennai, in registering the sale deed dated 05.07.2007 bearing Document No.2179 of 2007 executed by S.P.Velayutham/appellant in W.A.No.59 of 2016 in favour of his son-Amar/appellant in W.A.No.60 of 2016. Therefore, considering the legal issue, learned Single Judge, by order dated 04.01.2016 passed in W.P.No.33462 of 2014, held that with regard to right over the property, it would be open to the parties to approach the appropriate forum. Inspite of that, the above said impleading petitioners have filed these vexatious petitions to implead them in the writ appeals and therefore, for wasting precious time of the Court, we are inclined to impose the costs.

32. In fine, for the reasons stated above, we are of the considered view that the claims made by the impleading petitioners lack bonafide as they have approached the Court with unclean hands and hence, they are not necessary parties to implead them as respondents in the above Writ Appeals. Accordingly, the Civil Miscellaneous Petitions are dismissed, with costs of Rs.5,000/- each payable to the Hon'ble Chief Justice Relief Fund within a period of four weeks from the date of receipt of a copy of this order.

-sd/-
24/08/2021
/ TRUE COPY /

Sub-Assistant Registrar ( Statistics / C.S. )
High Court, Madras - 600 104.

TO

1 THE MANAGER,
ASSET RECONSTRUCTION
COMPANY (INDIA) LIMITED,
MR.NIRAVPAREK, THE RUBY,
10TH FLOOR, SENAPATI BAPATMARG,
DADAR (WEST), MUMBAI - 400 028

2 THE INSPECTOR GENERAL
OF REGISTRATION,
NO.100, SANTHOME HIGH ROAD,
CHENNAI - 28

3 THE SUB REGISTRAR
ALANDUR,12,1ST MAIN ROAD, NANGANALLUR
CO-OPERATIVE SOCIETY LIMITED,
NANGANALLUR, CHENNAI - 61

4 THE SECTION OFFICER,
ACCOUNTS SECTION,
HIGH COURT MADRAS.

+4 C.C. to M/S.WARAON & SAI RAMS Advocate SR.NO.4820, 4821, 4808/2021

Order

in

C.M.P.NOS.4547 OF 2018 & 4009 OF 2019 IN W.A.NO.59 OF 2016
AND C.M.P.NOS.4548 OF 2018 & 4003 OF 2019 IN W.A.NO.60 OF 2016

Date :24/08/2021

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VC (26/08/2021)