

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.413 of 2018
and CMP.No.2227 of 2018

R.Kanakaraj

..Petitioner

Vs.

1.K.Nagaraj
2.The Branch Manager,
Syndicate Bank, Tank Street,
Hosur Town and Taluk,
Krishnagiri District

..Respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order passed in IA.No.12 of 2017 in OS.No.42 of 2010 on the file of the Sub Judge, Hosur at Krishnagiri dated 06.01.2018.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : No Appearance

ORDER

This civil revision petition is filed against the order and decretal order passed in IA.No.12 of 2017 in OS.No.42 of 2010

on the file of the Sub Judge, Hosur at Krishnagiri dated 06.01.2018, thereby dismissing the petition to direct the second respondent herein to produce the required documents.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for declaration and permanent injunction in respect of the suit property. According to the petitioner, the suit property was purchased by him by the registered sale deed dated 24.07.2009 from the first defendant. However, the first defendant mortgaged the same property and borrowed loan by the mortgage deed dated 12.10.2009 with the second defendant by way depositing title deeds. The second respondent filed written statement and specifically stated that the first respondent approached the second respondent for sanction of loan for his business purpose. Therefore, the second respondent sanctioned loan to the tune of Rs.22,00,000/- and Rs.30,00,000/- in the year 2005 and 2007 itself. The property which was purchased by the petitioner was already mortgaged with the second respondent by the first respondent. Therefore, to verify whether the suit property was mortgaged with the second respondent, even in the year 2005, the petitioner filed petition for direction directing the second respondent herein to produce the following documents.

1. The documents obtained from the first defendant herein, during the time of sanctioning of loan Rs.22,00,000/- (Twenty Two Lakhs) under a/c No.SOD570 on 13.01.2005, by the alleged mortgage over the suit property.
2. The documents obtained from first defendant, during the time of availing further credit of Rs.30,00,000/- (Thirty lakhs) under SOD a/c No.125/939 dt. 12.05.2007 by treating the same the suit property as security.
3. Submit the statement of accounts of the first defendant for the period from 01.01.2005 to 31.12.2009, regarding the loan a/c Nos.SOD570 and SOD125/939
4. Submit the statement of accounts of the first defendant in other accounts No. if any
5. Submit the list of sureties and guarantors, their address, collateral property given by them for security for the alleged loan account numbers SOD 570 and 125/939
6. Submit the project report given by the first defendant for M/s SLV Enterprises and Transport and the documents annexed thereto
7. Date of submission of the above project report, date of sanctioning, date of recommendation to grant loans, by whom recommended and sanctioned, when was the loan sanctioned

and orders made for the above loan along with all endorsements

8. Memorandum of title deed created by the first defendant to your bank along with all documents
9. Particulars of repayments of loan by the first defendant under loan SOD 570 dt 13.01.2005 and under loan a/c No.SOD 125/939 dated 12.05.2007
- 10.Mortgage deed created by the first defendant over the suit property on 13.01.2005
- 11.---
- 12.---
- 13.Submit the copy of the mortgage ledger signed by the first defendant in connection with the alleged loan
- 14.What all are the actions initiated against the other purchasers of the remaining suit property viz one Dhanapal and Mani by your bank submit particulars with proof
- 15.To produce a certified copy of amendment to articles 6 of the Indian Stamp Act by its amendment act 31 of 2004 introduced by the Government of Tamil Nadu with effect from 16.12.2004.

3. On perusal of the documents which were required to be produced are pertaining to loan account of the year 2005 and

2007 and also in respect of mortgage deed created in the year 2005. The learned counsel of the petitioner would submit that only to verify whether the property purchased by the petitioner was already mortgaged in the year 2005 or not, the petitioner required loan documents. On perusal of the counter filed by the second respondent revealed that the required documents in serial Nos.1 to 10, 12 and 13 are in possession of the second respondent herein.

4. Considering the above, this civil revision petition is allowed and the order passed in IA.No.12 of 2017 in OS.No.42 of 2010 on the file of the Sub Judge, Hosur at Krishnagiri dated 06.01.2018 is set aside. The second respondent is directed to produce the documents in serial Nos.1, 2 and 13 alone. Consequently, connected miscellaneous petition is closed. No order as to costs.

17.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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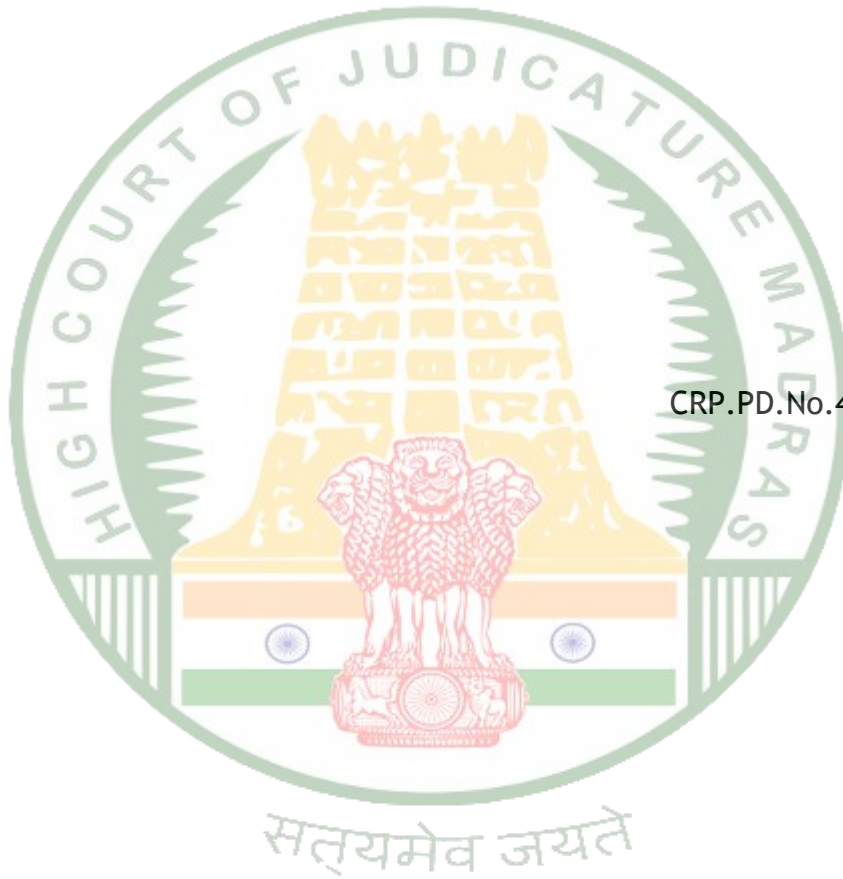
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G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Judge,
Hosur at Krishnagiri



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