Comp.A.No.162 of 2021
in
C.P.No.126 of 2008

R.SUBRAMANIAN, J.

This application has been filed seeking a direction to the Official Liquidator to execute a cancellation of the mortgage deed dated 15.05.1997 registered as Doc.No.1218/1997.

2. The applicants are the purchasers of the property from Mrs.R.V.Vasanthi, Mr.R.V.Ramesh and Mrs.R.V.Geetha vide sale deed dated 29.08.2003, registered as Doc.No.2454/2003, with the Sub-Registrar Office, Royapuram.

3. It is the claim of the applicants that, when they sought to raise an Education Loan, it was discovered that an entry relating to subsisting mortgage was found in the records of the Registration Department. Upon inspection, they found that their vendors had borrowed monies from the Company in liquidation viz., Perfect Benefit Fund Limited, by mortgaging the property and the vendors have also stated that they have discharged the mortgage long ago. Claiming that since the Official Liquidator is now incharge of the Company, the Official liquidator is bound to execute a discharge document, to enable the applicants to perfect their title to the property, the applicants have come up with this application.

4. The learned Official Liquidator has filed a report stating that neither the debt nor the mortgage is reflected in the statement of affairs filed by the Ex-Directors of the Company. It is also stated that there is no evidence of the transaction in the accounts handed over to the Official Liquidator pursuant to the order of winding up which came to be passed on 08.08.2008, which is nearly 11 years 2 months and 24 days after the mortgage transaction dated 15.05.1997. The learned Official Liquidator would submit that in the absence of any relevant information he is unable to either affirm or deny the claim made in support of this application.

5. I have considered the submissions of Mr.Rohan Rajasekarn, learned counsel for the applicants and Mr.Bavishetty Sridhar, learned Deputy Official Liquidator representing the Official Liquidator.

6. It is the claim of the applicants that the debt has been discharged. The Official Liquidator's report would state that there is no evidence of mortgage or debt in the books of the Company and the statement of affairs filed by the Ex-Directors does not also reveal the existence of such debt. Therefore, the presumption is that the debt has been discharged.

7. The learned Official Liquidator would seek permission to issue notice to the erstwhile Directors of the Company. I do not think it is necessary in the circumstances of this case, because the mortgage is of the year 1997 and we are now in 2021, nearly 24 years have gone away. Neither the accounts of the Company, nor the statement of affairs filed, reflect any subsisting debt payable by the vendors. Therefore, I am of the opinion that the applicants are entitled to the prayer in this application.

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8. Therefore, this application is **allowed**. The learned Official Liquidator is directed to execute a proper document of cancellation of mortgage deed dated 15.05.1997 and have the same registered.

03.09.2021

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