



C.R.P(NPD)No.2618 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD)No.2618 of 2021 and
Tr.CMP.No.825 of 2021 and
CMP.Nos.19451 & 19060 of 2021

Meena

..Petitioner in CRP and
Tr.CMP

Vs.

1.B.Ashok Kumar

2.B.Kamal

3.A.Suseela Kanwar

4.K.Hemalatha

5.The Chief Manager,
Indian Bank, Assets Recovery Management Branch,
No.55, Ethiraj Salai, Chennai – 600 026.

6.The Senior Branch Manager,
Indian Bank, Vadapalani Branch,
By its Senior Manager,
Inner Ring Road, Chennai.

7.M/s.S.Ramasamy & Co.,
Rep. By its Partner, Mr.S.Balasubramaniam,
No.59, Saidapet Road, Vadapalani,
Chennai – 600 026.

1/8



C.R.P(NPD)No.2618 of 2021

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8.S.Balasubramaniam

9.S.Sundaresan

10.S.Chelladurai

11.Anandavalli

..Respondents in CRP and Tr.CMP

Prayer in CRP.No.2618 of 2021: Civil Revision Petition filed Article 227 of the Constitution of India, against the fair and final order dated 06.08.2021 in IA.No.155 of 2021 in OS.No.101 of 2020 on the file of the II-Additional District Munsif's Court, Kallakurichi.

Prayer in Tr.CMP.No.825 of 2021: Transfer civil miscellaneous petition filed under Section 24 of CPC., seeking to withdrawn the petition in AS.No.19 of 2016, on the file of the XXI-Additional City Civil Court, Allikulam, Chennai and transer the same to the file of the Principal City Civil Court, Chennai, for being heard along with the appeal in unnumbered AS.Sr.No.22515 of 2016.

For Petitioner : Mr.N.Rajan in both CRP and Tr.CMP

For Respondents : Mr.Guberan for M/s.Rank Associates

for R1 to R4 and R7 to R11

Mr.S.Kalyanaraman for M/s.Aiyar and Dolia

for R5 & R6 in both CRP and Tr.CMP



C.R.P(NPD)No.2618 of 2021

COMMON ORDER

This civil revision petition has been filed against an order dated

22.09.2021 made in CMP.No.1105 of 2018 in AS.No.19 of 2016.

2.The grievance of the petitioner is not against an order allowing her impleading but, against the language used by the learned Additional District Judge and the costs imposed.

3.Mr.N.Rajan, learned counsel appearing for the petitioner would submit that while he has no serious objection for impleading the proposed parties in the appeal that is pending before the XXI-Additional Judge, City Civil Court, Chennai, he has reservations on the seathing observations made by the learned Judge in the course of the order and the imposition of costs at Rs.2,500/- to be paid to each of the petitioners by the 3rd respondent for opposing the impleading application.

4.Heard Mr.Guberan, learned counsel appearing for the respondents 8 to 11, the auction purchasers, who have been impleaded as defendants 8 to 11 and Mr.S.Kalyanaraman, learned counsel appearing for



C.R.P(NPD)No.2618 of 2021

the 6th Respondent / Bank.

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5.I find that the language used by the learned Judge in the course of the order is not palatable. The Hon'ble Supreme Court and this Court have been reiterated that Judges should not use very strong language either against the parties or against the Sub-ordinate Officers in the course of their order and imposition of costs on the respondent for opposing a petition at the interlocutory stage, sends wrong signal, since the main proceeding is pending. I am therefore, of the opinion that the portion of the order imposing costs on the 3rd respondent has to be deleted and the same is accordingly, deleted. This civil revision petition is disposed of with the above directions for deletion of Clause 2 of the decretal order relating to payment of costs.

6.As far as the transfer civil miscellaneous petition is concerned, transfer is sought for mainly on the ground of the appeal filed by the auction purchasers against the same decree is pending before the Principal City Civil Judge in AS.SR.No.22515 of 2016 and the application for condonation



C.R.P(NPD)No.2618 of 2021

of delay in filing the appeal is pending, though leave has been granted to the Appellants therein to file an appeal, since they are third parties to the appeal.

7.Mr.Guberan, learned counsel for the appellant in AS.Sr.No.22515 of 2016 would submit that he intends withdrawing the appeal and therefore, transfer is not necessary. No doubt, the withdrawal of the appeal by the appellants in AS.Sr.No.22515 of 2016 would remove one of the grounds for transfer but at the same time, considering the observation of the learned XXI-Additional Judge, City Civil Court, Chennai in the course of the order impleading the respondents 6 to 8 in the revision as parties to the appeal, I am of the opinion that the appeal in AS.19 of 2016 should be transferred from the file of the XXI-Additional Judge, City Civil Court, Chennai to the file of the III-Additional Judge, City Civil Court, Chennai in order to remove the apprehension that has been raised in the mind of the petitioners because of the language used and the costs imposed. Therefore, in the interest of justice, AS.No.19 of 2016 on the file of the XXI-Additional Judge, City Civil court, Chennai is withdrawn and



C.R.P(NPD)No.2618 of 2021

transferred to the III-Additional Judge, City Civil Court, Chennai to be disposed of in accordance with law. Tr.CMP.No.825 of 2021 is disposed of with the above directions.

8.Considering the fact that the appeal is pending for more than five years, the III-Additional Judge, City Civil Court is directed to dispose of the appeal within a period of eight months from the date of receipt of the records from the transferor Court.

9.In fine, CRP.No.2618 of 2021 & Tr.CMP.No.825 of 2021 are disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

20.12.2021

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C.R.P(NPD)No.2618 of 2021

To:-

1.The XXI-Additional City Civil Court,
Chennai.

2.The III-Additional City Civil Court,
Chennai.



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C.R.P(NPD)No.2618 of 2021

R.SUBRAMANIAN, J.

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C.R.P(NPD)No.2618 of 2021 and
Tr.CMP.No.825 of 2021 and
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20.12.2021