



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Eighth day of October Two Thousand Twenty One

PRESENT

THE HON`BLE MS.JUSTICE P.T.ASHA

CMP.No.8664 & 8665 of 2017

in AS.No.25 of 2017

N.THANGAMANI

[PETITIONER IN BOTH THE PETITIONS]

Vs

S.DURAIVELU (DECEASED)

1. D.PUNITHAVATHY

[RESPONDENTS IN BOTH THE PETITIONS]

2 E.D.VALAYAPATHY

3 D.KUMARESAN

4 SHENOYNAGAR SASWATHA NIDHI LTD,
REP BY ITS SECRETARY,
NO.723, POONAMALLEE HIGH ROAD,
AMINJIKARAI CHENNAI-600 029.

5 THE AUTHORISED OFFICER
CHENNAI ASSET RECOVERY BRANCH,
BANK OF INDIA, STAR HOUSE,
1ST FLOOR NO.30, ERRABALU STREET,
CHENNAI-001.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to implead the 5th respondent, The Authorised Officer, Chennai Asset Recovery Branch, Bank of India as the Respondent No.3, in the Appeal Suit in AS.No.25 of 2017 [in CMP.No.8664 of 2017];

2.To pass an order of interim injunction restraining the 5th Respondent/proposed 2nd respondent from bringing the Schedule mentioned property to sale pursuant to the notice dated 12/05/2016 effected in Indian Express, chennai Edition pending disposal of the application for impleading the proposed party to the appeal [in CMP.No.8665 of 2017] pending disposal of the appeal suit in AS.No.25 of 2017 pending on the file of this Honourable Court.



Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.THAGARAJAN, Advocate for the petitioner in both the petitions and of M/S.RAMYA, ADVOCATE FOR MR.C.JAGADISH, Advocate for the 1 to 3 Respondents and of MR.E.B.BENJAMIN GEORGE, Advocate for the 5th respondent in both the petitions, the court made the following order:-

CMP No.8664 of 2017:

This application has been filed to implead the 5th respondent the Authorised Officer, Chennai Asset Recovery Branch, Bank of India as the Respondent No.3, in the appeal suit in A.S.No.25 of 2017

CMP No.8664 of 2017:

This application has been filed seeking an order of interim injunction restraining the 5th respondent/proposed 2nd respondent from bringing the Schedule mentioned property to sale pursuant to the notice dated 12.05.2016 effected in Indian Express, Chennai Edition pending disposal of the application for impleading the proposed party to the appeal pending disposal of the appeal suit in A.S.No.25 of 2017.

2. A common counter has been filed by respondents 1 to 3, who are appellants before this Court stating that the entire dues to the proposed party, viz., Bank of India has been settled by them and the Bank has also issued a 'No Dues Certificate'. The counter contains an Annexure which is the letter dated 30.09.2021 of the Bank has been appended. The said letter would read as follows:

"Sir,

This is with reference to the Loan against property of Rs.23.00 lakhs availed by you.

The account was settled and closed under One Time Settlement Scheme of the bank as on 30.09.2021. This No Dues Certificate is issued

1) Without prejudice to any criminal cases initiated against the borrowers and/or guarantors and/or third parties irrespective of whether the offence is compoundable or not and the bank intends the law to take its own course till logical conclusion of such criminal cases as compromise is entertained as a commercial prudence to recover the money without prejudice to such criminal actions.

2) Any legal dispute due from others would be at the risk and responsibility of the borrower and the company and promoters has to undertake that the bank has no liability with regards to any disputes/claims/injunction etc.,



3. In future, if any fraud is found, the same will be dealt with as per bank's policy.

The name of the borrower/Company/Firm will continue to appear with Credit information Company viz., CIBIL as "Account closed under compromise/settled."

2. Therefore, it is clear that the Bank no longer has an interest with reference to the suit schedule as their dues were already paid to them.

3. In the light of the above, these applications are dismissed as infructuous.

Post the first appeal for arguments on 05.11.2021.

-sd/-
08/10/2021

/ TRUE COPY /

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

TO

THE XIX ADDITIONAL JUDGE,
CITY CIVIL COURT, CHENNAI

C.C. to M/S.T.V.KRISHNAMACHARI, Advocate SR.NO.5886/2021

Order

in
CMP.No.8664 & 8665 of 2017
in AS.No.25 of 2017

Date :08/10/2021

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RA 13/10/2021