

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Civil Suit No.768 of 2018

Ar.V.Valliammai @
Ar.V.Valliammai Achi,
W/o.A.Anbudurai,
New Door No.26,
Old Door No.11,
Srinagar Colony,
South Avenue, Saidapet,
Chennai - 600 015.

Plaintiff

versus

1.M/s.T.Jayaraman,
A Partnership Firm,
Rep. by its Managing Partner,
T.Jayaraman,
No.10, K.R.Koil Street,
West Mambalam,
Chennai - 600 033.

2.Sri Raj & Co.
Government Auctioners,
Rep. by its Manager,
No.7, First Floor,
Sunkurama Chetty Street,
Chennai - 600 001.

3.V.Sriram,
S/o.Venkataraman,
39, 2nd Avenue,
Shastri Nagar, Adyar,
Chennai - 600 020.

...

Defendants

Prayer: Plaintiff filed under Order IV Rule 1 read with Order XXXVII Rule 2 of Original Side Rules read with Order VII Rule 1 and Order XXXIV Rule 2 of the Code of Civil Procedure, praying for the following judgment and decree as against the defendants;

a) for passing a preliminary decree directing the 1st defendant to furnish the accounts and upon furnishing the same before this Court to cancel the said mortgage upon settlement of the mortgage amount and hand over the original title deeds relating to the suit property to the plaintiff within the time stipulated by this Court;

b) to declare that the auction conducted by the 2nd defendant on behalf of the 1st defendant on 22.10.2018 is vitiated by fraud and null and void and not binding on the plaintiff ;

c) for a permanent injunction, restraining the defendants from interfering with the peaceful possession and enjoyment of the suit schedule mentioned property; and

d) for the cost of the suit.

For Plaintiff

: M/s.Balasubramaniam
for Mr.T.Sathyaseelan

For Defendant No.1 : Mr.E.Hariharan
for Mr.PL.Narayanan
For Defendant Nos.2 & 3: No Appearance

JUDGMENT

Today, this Civil Suit is listed under the caption "for dismissal". Even otherwise, the case is posted for taking steps to implead the legal representatives of the deceased first defendant.

2. Heard.

3. When at the time, the matter reaches for consideration, one Mr.Balasubramaniam, learned counsel appearing on behalf of the plaintiff, appeared before this Court through Video Conferencing. He would submit that, in earlier, in order to find out the details in respect to the legal representatives of the deceased first defendant, Memo has been issued to the learned counsel, who is on record for the first defendant. He would further submit that though a copy of the said Memo has been furnished to the first defendant's counsel, he is not furnished the details of the legal representatives of the deceased first defendant. According to him, due to

non furnishing of the details of the legal representatives of the deceased first defendant, he is not in a position for taking steps to implead the legal representatives of the deceased first defendant.

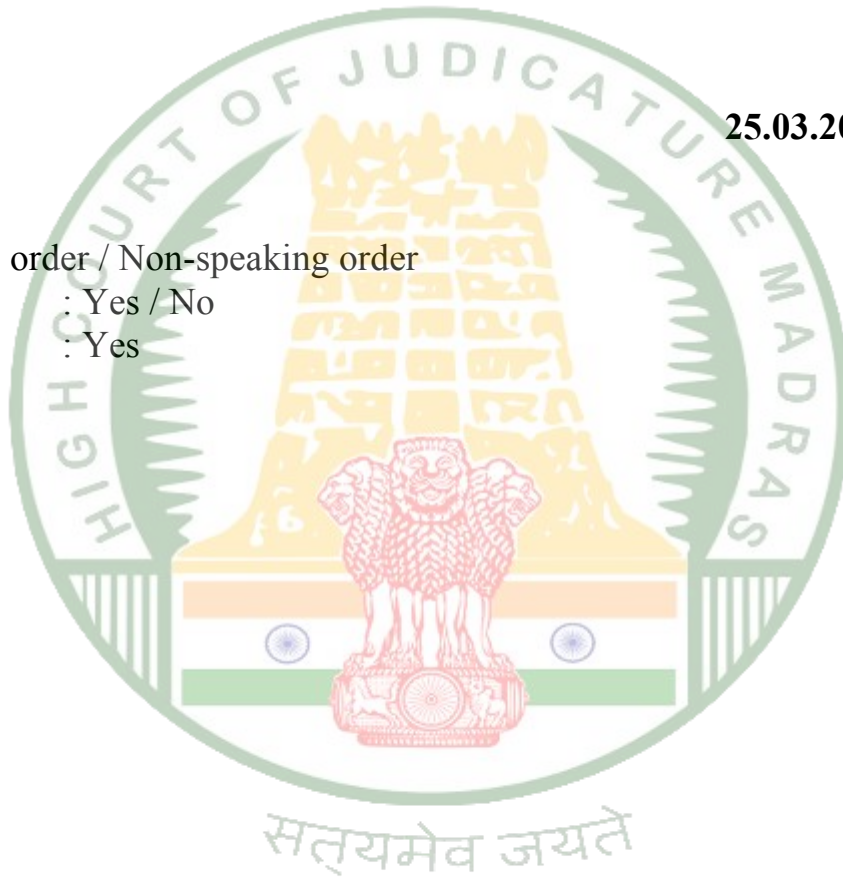
4. Now, on considering the said submission with the relevant records, it would appear that on 16.03.2021, the said Memo has been filed before this Court. On perusal of the said Memo, it seems that the same has been filed before this Court, without furnishing the copy of the Memo to the learned counsel, who appeared on behalf of the first defendant. So, the attitude committed by the plaintiff's counsel shows that he is attempting to prolong the proceedings in the main suit. Further, while at the time of admitting the application filed in O.A.No.1047 of 2018, on 19.11.2018, this Court has granted an order of interim injunction, on condition that the applicant / plaintiff shall deposit a sum of Rs.25,00,000/- to the first respondent-Firm, on or before 16.12.2018. The said conditional order has not been complied with so far.

5. Therefore, being the reason that the plaintiff is not taking any effective steps for amending the plaint, the suit filed by the plaintiff is liable to be dismissed. Accordingly, this Civil Suit is dismissed for default. However, there is no order as to costs.

25.03.2021

Speaking order / Non-speaking order
Index : Yes / No
Internet : Yes

sri



WEB COPY

R.PONGIAPPAN, J.

sri



Civil Suit No.768 of 2018

WEB COPY

25.03.2021