



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.04.2021

PRONOUNCED ON : 02.06.2021

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CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(MD)No.776 of 2012

MP(MD).No.1 of 2012

(Through Video Conferencing)

P.Rajendran

Petitioner/Plaintiff/Respondent

Vs

1.R.M.K.R.Duraiaraj (died)

2.D.Sakthi Velusamy

Respondents

(2nd respondent is brought on record as
LRs of deceased sole respondent vide
Court Order dated 02.03.2020 made in
CMP(MD) Nos. 664, 665 and 667/2020)

Prayer:- This Civil Revision Petition has been filed, under Section 115 of the Civil Procedure Code, against the order dated, 13.02.2012, made in IA.No.702 of 2011 in OS.No.78 of 2000, by the Sub Court, Palani.

For Petitioner : Mr.S.Anand Chandrasekar
for M/s. Sarvabhauman Associates

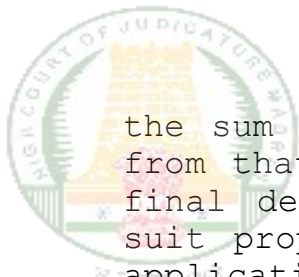
For 2nd Respondent : Mr.Gomathi Sankar-R2

ORDER

1.This Civil Revision Petition has been filed, against the order dated, 13.02.2012, made in IA.No.702 of 2011 in OS.No.78 of 2000, by the Sub Court, Palani.

2.The Plaintiff is the Petitioner and the 1st Respondent is the Defendant and the 2nd Respondent was brought on record on the demise of the 1st Respondent.

3.On the basis of the mortgage deed, dated 20.04.1987, executed for a sum of Rs.35,000/-, the suit was filed for recovery of money. On 01.03.2004, an exparte preliminary decree was passed for recovery of a sum of Rs.2,02,720.11/-, of which



the sum of Rs,1,10,845/- shall carry future interest at 18% p.a. from that date till the date of realisation. On 24.02.2005, the final decree was passed in IA.No.309 of 2004, for bringing the suit property for sale in auction. The Defendant had filed the application in IA.No.702 of 2011 seeking to calculate the interest on the suit mortgage amount and also to reduce the rate of interest. The Plaintiff had filed a counter, seeking for dismissal of the said application. In and by the impugned order, the application was allowed. Hence, this Civil Revision Petition has been filed.

4. According to the Petitioner, in and by the impugned order, though the principal amount of Rs.35,000/- as stated in the mortgage deed, has been rightly fixed for calculation of interest, reducing the rate of interest from 18% to 6% is not proper.
5. Per contra, it is the case of the Respondent that there is no illegality or perversity in the impugned order, awarding 6% interest p.a. on the principal amount of Rs.35,000/- and hence, no warrant is called for.
6. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
7. The suit mortgage deed is not disputed. The dispute is only with regard to the rate of interest of 6% as awarded in the impugned order by the court below. As per the recitals of the suit mortgage deed, it is clear that the principal amount shall carry interest at 18% p.a.
8. In view of the above, this Court is of the opinion that the lower court is justified in fixing the principal amount as Rs.35,000/- based on the suit mortgage deed and hence, it is just and proper. However, in so far as the award of rate of interest is concerned, the lower court erred in reducing the rate of interest from 18% to 6% p.a. without considering the recitals of the suit mortgage deed and hence, it needs interference by this Court.
9. Accordingly, in so far as the fixing of the principal amount of Rs.35,000/-, on which the interest is to be calculated is concerned, the impugned order is upheld. However, with regard to award of rate of interest, the impugned order is modified to the effect that the sum of Rs.35,000/- being the suit mortgage deed amount shall carry interest at the rate of 18% p.a. and accordingly, the decretal amount shall be calculated and awarded.



10. This Civil Revision Petition is disposed of with the above modification of the impugned order. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS I)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1.The Sub Court, Palani

+1 CC to M/s.G.GOMATHI SANKAR, Advocate (SR-18639[F] dated 02/06/2021)

Order in
CRP (MD) No.776 of 2012

Dated
02.06.2021

AS(11.06.2021)3P 3C