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IN THE HIGH COURT OF JUDICATURE AT MADRAS

THURSDAY THE TWENTY FOURTH DAY OF MARCH

TWO THOUSAND AND TWENTY TWO

PRESENT:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Second Appeal No.596 of 2015

C. Venugopal (died)

C.V.Chandrasekar (died)

3. C.V.Dhanraj

...3<sup>rd</sup> Appellant/3<sup>rd</sup> Respondent/4th Plaintiff

4. C.Bhagyalakshmi

5. C.Chandankumar

6. S.Samundeswari

...4 to 6 Appellants

Appellants 4 to 6 brought on record as LR's of the deceased 1<sup>st</sup> appellant viz. C.V.Chandrasekar vide Court order dated 23.02.2022 made in CMP No.2783 of 2022 in SA No.596 of 2015

Vs.

1.M/s.The Puraisaiwakkam Permanent Fund Limited,  
Rep. By its Director,  
No.173, Vellala Street,  
Purasaivakkam, Chennai 84.

...1<sup>st</sup> Respondent/Appellant/1<sup>st</sup> Defendant

2.M.Kumarithangam

3.P.Muralidharan

4.V.Baulaiah

5.S.Padam Chand Kattaria

6.P.Manju Kattaria

...2 to 6 Respondent/4 to 8 Respondents/  
3 to 7 Defendants



7.Shree Murugan Auctioneers and Co., Pvt Ltd.,  
No.3/1A, D Block,  
2<sup>nd</sup> Avenue, Anna Nagar,  
Chennai 600 040.

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...7<sup>th</sup> Respondent/9th Respondent/2<sup>nd</sup> Defendant

C.V. Ehiraj (died)

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the judgment and decree of the learned IV Additional Judge, City Civil Court, Chennai dated 05.10.2013 in A.S.No.124 of 2009 reversing the judgment and decree of the Trial Court dated 20.03.2007 in O.S.No.5745/2002 on the file of XII Assistant Judge, City Civil Court, Chennai.

DECREE:This Second Appeal coming on for hearing on this day and upon perusing the Grounds of Appeal , the Judgment and decrees of the Lower Appellate Court and the Court of the first instance and the material papers in the case and upon hearing the arguments of Mrs.Chitra Sampath, Senior Counsel for M/s.P.Dhananjayan, Advocate for the Appellants and of Mr.M.A.Lakshmipathy, Advocate for the First respondent and of Ms.R.V.Gayathri for M/s.P.B.Balaji, Advocate for the second and Third Respondents and of Mr.V.Jayachandran, Advocate for the Fourth Respondent and the Respondents 5 to 7 are not appearing either in person or by an Advocate and this Court while allowing this Second Appeal by setting aside the Judgment and decree dated 05.10.2013 made in A.S.No.124/2009 passed by IV Additional Judge, City Civil Court, Chennai and confirming the Judgment and decree dated 20.03.2007 made in O.S.No.5745/2002 passed by XII Assistant Judge, City Civil Court, Chennai and an opportunity having been given to the Appellants herein settle the amount to the 1<sup>st</sup> Respondent herein and directed this Registry to list the above said Second Appeal for "Reporting Final Settlement" on 07.04.2022 and subsequently as per order of this Court this case having been listed on Thursday, the Seventh day of April 2022 Under Caption for "Reporting Final Settlement", and a Memo was filed by the Counsel for the 1<sup>st</sup> Respondent on behalf of the first Respondent and the memo duly signed by the Counsel for the 1<sup>st</sup> Respondent and the Original of which is annexed herewith and the appellants having agreed to pay a sum of Rs.11,00,000/- (Rupees Eleven Lakhs only) towards full and final settlement of all the three mortgage loans and for the closure of all the three mortgage loans No.(1). TSL-4231 for 2,00,000/- (2)TSL 4917 for Rs.3,00,000/- and (3) TSL-5604 for Rs.5,00,000/-, the 1<sup>st</sup> Respondent herein/1<sup>st</sup> Defendant having agreed to receive the said amount Rs.11,00,000/- (Rupees Eleven Lakhs only) towards full and final settlement of the above mentioned mortgage loan



borrowed by the appellants and accordingly, on 06.04.2022 the mortgagors have sent a sum of Rs.11,00,000/- by way of RTGS with UTR No.HDFCR52022040659330867 from HDFC Bank Ltd., to the first respondent's herein/1<sup>st</sup> Defendant bank A/C.No.21127464066 at Indian Bank, Alagappa Road Branch, Purasawalkkam, Chennai and after the confirmation of the payment sent by the appellants, the first respondent herein/1<sup>st</sup> Defendant has issued a settlement receipt dated 07.04.2022, and the memo and the submissions made by the aforesaid Counsels appearing on either side is recorded in this Second Appeal, and doth order and decree as follows;

i))that the appellants 3 to 6 herein/Plaintiff have paid a sum of Rs.11,00,000/- to the 1<sup>st</sup> respondent/1<sup>st</sup> Defendant towards full and final settlement of the dues and no more dues are payable by the appellants 3 to 6/Plaintiff to the 1<sup>st</sup> respondent/1<sup>st</sup> Defendant and that the amount has been finally settled.

ii)That the Appellants 3 to 6/Plaintiffs and 1<sup>st</sup> Respondent/1<sup>st</sup> Defendant do have no further dispute is to be raised at any future point of time.

iii)That the auction purchasers be and hereby are directed to return the Original title document pertaining to the property to the 1<sup>st</sup> Respondent/1<sup>st</sup> Defendant herein;

iv)That the auction sale itself has been held to be null and void;

v)That the 1<sup>st</sup> Respondent herein/1<sup>st</sup> Defendant be and hereby is directed to receive the Original document from the auction purchasers and hand over to the Appellants herein with in a period of 30 days from the date of receipt of a copy of this Order;

vi)That this decree passed in this Second Appeal shall be registered before concern Sub Registrar;

vii)That the auction sale that was made in favour of the auction Purchasers will get authomatically reversed;



viii) That the Sub Registrar do incorporate a note in the concerned records that the sale deeds that were registered in favour of the auction purchasers will stand cancelled;

(\*) The Xerox Copy of the Memo filed on behalf of the First Respondent enclosed

SD/-  
ASSISTANT REGISTRAR (CS-II)

// TRUE COPY //

SUB ASSISTANT REGISTRAR

To

1. The IV Additional Judge, City Civil Court, Chennai.

2. The XII Assistant Judge, City Civil Court, Chennai.

3. The Sub Registrar,  
The Sub Registrar Office, T.Nagar, Chennai.

4. The Director,  
The Puraisaiwakkam Permanent Fund Limited,  
No.173, Vellala Street, Purasaivakkam, Chennai 84.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+18ccs to Mr.P.Dhananjayan, Advocate SR. No.23792,23791

+1cc to Mr.P.B.Ramanujam, Advocate Sr.NO.23960

DATED:24.03.2022

DECREE

Second Appeal No.596 of 2015

Allowing this Second Appeal against preferred the judgment and decree of the learned IV Additional Judge, City Civil Court, Chennai dated 05.10.2013 in A.S.No.124 of 2009 reversing the judgment and decree of the Trial Court dated 20.03.2007 in O.S.No.5745/2002 on the file of XII Assistant Judge, City Civil Court, Chennai etc as stated within.

gmr[col]

sga 06/05/2022

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