



C.R.P.(PD) No.1456 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 22.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.1456 of 2022
and C.M.P.No.7528 of 2022

A.Anand Prasad

... Petitioner / Petitioner /Plaintiff

Vs.

1.A.Indira Anand

2.A.Manohar Prasad

3.M/s.Ravishankar Industries Pvt. Ltd.,
Rep by the Provisional Liquidator
Corporate Bhawan. Second Floor
No.29, Rajaji Salai
Chennai – 600 001.

4.A.Lakshmi Anandhi

5.A.Anhali Krishna Mani

6.A.Chandini Prasad

7.The Recovery Officer
Debts Recovery Tribunal-II
6th Floor, Additional Office Building
Shastri Bhavan
Haddows Road
Nungambakkam
Chennai – 600 006.

... Respondents / Respondents /
Defendants



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to issue a direction to the learned VI Assistant City Civil Court to take up I.A.No.3 of 2021 in O.S.No.7963/2021 for interim relief without any delay and decide the same, in any event on or before 31.07.2022 and further direct the 7th respondent/Recovery Officer to maintain status quo in regard to the suit property.

For Petitioner : Mr.V.Raghavachari
for Mr.Vignesh

ORDER

1.1 The revision petitioner herein is the plaintiff in O.S.No.7963 of 2021. He claims that the suit property herein was the subject matter of a family arrangement of the year 2002, that it came to be registered in 2019, and that the plaintiff holds 25% title in the suit property based on the family arrangement. Be that as it may, M/s.Kotak Mahindra has initiated the proceedings for recovery of debts through Debt Recovery Tribunal against one of his co-sharers who is a party to the aforesaid family arrangement referred to above. The proceedings culminated in the decree of Debts Recovery Tribunal, pursuant to which the Recovery Officer was to take delivery of the property. In the proceedings before the DRT, the present plaintiff wanted to interfere since he held 25% title over the property. He



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lost it and this was agitated upto the Hon'ble Supreme Court, and he was not given an opportunity to present his claim even before the Debts Recovery Tribunal.

1.2 Since the revision petitioner's claim of 25% title over the suit property has not been adjudicated yet by any judicial forum, he instituted a statutory suit as per Rule 11 of Schedule II of the Income Tax Act r/w. Section 29 of the Recovery of Debts and Bankruptcy Act, 1993 in O.S.No.7963/2021 before the City Civil Court, Chennai. The suit is laid for declaration of his 25% right over the suit property in terms of the family arrangement. In this suit, the plaintiff has taken out an application in I.A.No.3/2021 for an order of interim injunction to refrain the 7th defendant / 7th respondent herein, the Recovery Officer from taking possession. In that injunction application, notice was ordered by the trial Court, and though served with a notice, the Recovery Officer remained exparte. The service of notice in I.A.No.3 of 2021 is stated to have been now complete. However, the trial Court is yet to pass an order in I.A.No.3/2021. Having chosen to remain exparte in I.A.No.3/2021, the Recovery Officer is afoot to take possession of the property in relation to which the plaintiff seeks his right to be



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declared in the suit.

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2. The learned counsel for the revision petitioner submits that the Recovery Officer has taken possession of the first floor of the property on 12.04.2022. The Recovery Officer has taken an undertaking letter from a permissive occupant of the building that she would give vacant possession of the ground floor by today evening (22.04.2022).

3. The learned counsel informed the Court that I.A.No.3 of 2021 was posted on 04.04.2022, from which date the case came to be adjourned to 13.06.2022, and with holidays intervening between 14.04.2022 to 17.04.2022, it became difficult for the revision petitioner to move the Court to have the matter advanced to an earlier date. He, therefore seeks an early hearing of the matter of I.A.No.3 of 2021.

4.1 There are two aspects which the Court now needs to consider: On the one hand, there is a creditor whose claim is waiting to be settled from 2011, and on the other hand, there is this plaintiff who claims a fractional share in the very properties, after which the Recovery Officer is. Indeed, the suit is



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laid as a statutory suit in terms of Rule 11 of Schedule II of the Income Tax Act r/w. Section 29 of the Recovery of Debts and Bankruptcy Act, 1993.

4.2. Here is the plaintiff who has laid a statutory suit and his claim needs to be adjudicated only by the civil Court. And, the Recovery Officer has chosen to remain exparte in I.A.No.3/2021, but is still attempting to take possession. As a statutory official, the Recovery Officer ought to have been fair to the judicial process, but going by the line of contention of the revision petitioner, the Recovery Officer concerned appears to be in a hide and seek game mode.

5. Therefore, this Court deems it appropriate that I.A.No.3 of 2021 in O.S.No.7963/2021 is advanced to 27.04.2022, and the trial Court is directed to take up I.A.No.3/2021 for hearing. Till such time, it is necessary to preserve the current status quo. Therefore, this Court directs the Recovery Officer, the 7th respondent herein, not to take delivery of the ground floor of the property in question till 27.04.2022. The counsel for the revision petitioner is directed to serve notice on all the parties to the suit about the advance hearing of the case before the trial Court on 27.04.2022,



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as is now directed by this Court.

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6. With the above direction, this revision is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

22.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

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Note : Issue order copy on 25.04.2022



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N.SESHASAYEE.J.,

ds

To:
The Judge
VI Assistant City Civil Court
Chennai.

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and C.M.P.No.7528 of 2022

21.04.2022