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Comp. A.No.389 of 2022

in

C.S.No.55 of 2005

SENTHILKUMAR RAMAMOORTHY J.

The vendors of the applicant had created a mortgage in favour of the company in liquidation on 08.01.1987. The said mortgage is in respect of a borrowing of Rs.30,000/-, which was repayable in 72 months. According to the applicant, the mortgage was discharged in September 1987 as evidenced by the endorsement made on the mortgage deed on 01.09.1987 by the mortgagee/company in liquidation. Therefore, the applicant seeks a direction to the Official Liquidator to execute a discharge receipt before the Sub Registrar, Sub Registrar Office, Sowcarpet, cancelling the mortgage deed dated 08.01.1987.

2. The Official Liquidator has filed a report dated 10.10.2022 in response to this application. In paragraph 5 of the said report, it is stated that the ex-directors of the company in provisional liquidation filed the statement of affairs on 23.08.2005 and that the applicant's vendors' names are not found in the list of trade debtors. On that basis, it is stated that it is likely that the loan was discharged. However, the Official



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Liquidator has called for the production of the cash receipt issued by the company in liquidation.

3. The loan was availed from the company in liquidation by the vendors of the applicant. The said loan was availed of in January 1987. Therefore, about 35 years have elapsed since then. As the purchaser of the property, the applicant states that the receipt in relation to the discharge of the mortgage was not provided by the vendors and, instead, the mortgage deed with the endorsement “cancelled” was provided. In the overall facts and circumstances, the applicant has established a case for the grant of the relief prayed for.

4. Accordingly, this application is allowed by directing the Official Liquidator to execute a discharge receipt before the jurisdictional Sub Registrar in respect of the cancellation of mortgage deed dated 08.01.1987 and registered as Document No.6/1987. For such purpose, if any action is required to be taken by the applicant, the applicant is directed to take all necessary action.

14.10.2022

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