



Rev.Aplo.No.2 of 2023

Rev.Aplo.No.2 of 2023
in Comp.A.No.105 of 2006
in C.P.No.243 of 1997

KRISHNAN RAMASAMY, J.

This application was filed to review the order passed by this Court dated 24.08.2010 in Comp.A.No.105 of 2006 in C.P.No.243 of 1997 setting aside the sale deed executed in favour of the applicant herein.

2. Mr.T.Mohan, learned Senior counsel appearing for the applicant would submit that Comp.A.No.105 of 2006 was filed for the following reliefs:

“a) to treat the application as urgent;

b) to declare the sale of assets of the company (in liquidation) vide sale deed dated 12.08.2002 registered as Doc.No.14 of 2003 both in sub-registration office at Kodaikanal in Registration District Dindugal, as null and void and to further direct the 2nd respondent to re-possess the assets of the company (in liquidation) lying at survey nos.23/4 and 396 A and in ward C Block 18, T.S.No.24 measuring an extent of 22.5 cents together with residential building admeasuring 3000 Sq.Ft pending disposal of the above company petition;”



3. The learned Senior counsel appearing for the applicant herein would contend that the property was sold vide sale deeds dated 12.08.2002 and 07.01.2003 and an application in Comp.A.No.105 of 2006 was filed to set aside the same. Though the applicant in Comp.A.No.105 of 2006 was well aware about the fact that the property was sold to the applicant herein and the sale deeds were also in favour of them and also they have been enjoying the said property, he had not impleaded the applicant herein as one of the parties, due to which, no opportunity was provided to the applicant herein to contest the matter. When the application was filed to set aside the sale deeds, necessarily the applicant herein, in whose favour the sale deeds were executed, should have been impleaded. Therefore, he would request this Court to recall the said order and hear the matter after impleading the applicant herein as one of the parties.

4. Further the learned Senior counsel would submit that though the order of setting aside the sale deeds executed in favour of the applicant herein was made on 24.08.2010, the said order came to the light of the applicant herein only when the learned Official Liquidator came to his house and took possession on 20.11.2022.



Rev.Aplo.No.2 of 2023

WEB COPY

5. According to the learned Official Liquidator, the possession order was passed on 14.10.2022 and thereafter, immediately he took possession of the property from the applicant herein on 20.11.2022.

6. The learned Senior counsel appearing for the applicant herein would submit that his client has filed this application on 15.12.2022 to recall the order passed by this Court dated 20.08.2010, since the said order was passed without impleading the applicant herein as one of the parties, due to which, he has lost his opportunity to participate in the hearing.

7. As far as the learned counsel appearing for the applicant in Comp.A.No.105 of 2006 is concerned, he fairly admitted that he has not impleaded the applicant herein, who is one of the necessary parties.

8. Heard the learned Senior counsel appearing for the applicant in the present application and the learned counsel appearing for the applicant in Comp.A.No.105 of 2006 and also the learned Official Liquidator and perused the materials available on record.



WEB COPY

9. It appears that Comp.A.No.105 of 2006 was filed to set aside the sale deeds executed in favour of the applicant herein by one of the Ex-Managing Directors. The Ex-Managing Director, who is well aware of the fact that the subject property was sold to the applicant herein, had moved an application in Comp.A.No.105 of 2006 to set aside the same.

10. When such being the case, it is the duty of the applicant in Comp.A.No.105 of 2006 to implead the applicant herein, who is the buyer of the property, since if any order is passed, the interest of the applicant herein will be affected prejudicially. However, he has not impleaded the applicant herein as one of the parties.

11. Under these circumstances, this Court passed an order to set aside the sale deeds executed in favour of the applicant herein. The said order was passed on 24.08.2010 and it appears that the same came to the knowledge of the applicant herein only when the learned Official Liquidator went to his house and took over the possession of the property on 20.11.2022 and thereafter immediately the applicant herein had filed this application on 15.12.2022 to recall and review the order passed by



Rev.Aplo.No.2 of 2023

this Court on 20.08.2010.

WEB COPY

12. Very many submissions were made on merits of the case.

However, in general, this Court is of the view that once winding up order is passed, no sale deeds can be executed by any of the Ex-directors and the sale deeds can be executed only by the learned Official Liquidator with the leave of this Court. However, in the present case, the applicant herein has not been impleaded as one of the parties to the application in Comp.A.No.105 of 2006 and without their knowledge, the sale deeds were set aside and no opportunity was provided to the applicant herein.

13. This Court has considered the submission made by the learned counsel for the applicant herein and is inclined to recall the order only on the ground that the said order was passed without impleading the applicant herein and no opportunity was provided to make his submissions.

14. Accordingly, this Review Application is allowed and the order dated 24.08.2010 passed in Comp.A.No.105 of 2006 in C.P.No.243 of 1997 is recalled.



WEB COPY



Rev.Aplo.No.2 of 2023



WEB COPY



Rev.Aplo.No.2 of 2023

KRISHNAN RAMASAMY, J.

nsa

15. The applicant in Comp.A.No.105 of 2006 is directed to implead the applicant herein, who is the buyer of the property.

16. List the Comp.A.No.105 of 2006 in C.P.No.243 of 1997 on 28.04.2023.

13.04.2023

nsa

Rev.Aplo.No.2 of 2023
in Comp.A.No.105 of 2006
in C.P.No.243 of 1997