



Comp.A.No.53 of 2023
in C.P.No.260 of 2004

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KRISHNAN RAMASAMY, J.

This Application has been filed by the applicant/Ex-Managing Director of the respondent company viz., M/s.Selvarani Chit Funds Private Limited (in liquidation), for staying all further proceedings in R.E.P.No.19 of 2009 on the file of learned Additional District Sessions Judge for Fast Track Court – I, Salem, until disposal of C.R.P.No.1064 of 2018.

2. The learned counsel for the applicant submitted that the said M/s.Selvarani Chit Funds Private Limited company which is now in liquidation, was carrying on the business of collecting money from its members in the name of the company and putting up the collected money for auction. He further submitted that since the said company was running on a rental premises, the applicant and other Directors of the company viz., Mr.P.Thirugnanam and Mr.R.Thirugnanam had purchased the said office premises situated in a rental property from a third party by way of Sale Deed dated 13.07.1994 which was registered as Document No.1463 of 1994 on the file of Sub Registrar Office, Salem. The said sale consideration amount



was paid to the third party, from and out of the company account lying with City Union Bank, Salem. The said transaction is reflected in the Profit and Loss Account for the year ended 1995-1996 of the company.

2.1. The learned counsel also submitted that one of the depositors filed a company petition in C.P.No.260 of 2004 before this Court, for winding up the said M/s.Selvarani Chit Funds Private Limited. This Court vide order dated 01.04.2008, wound up the said company and appointed the Official Liquidator and directed the Official Liquidator to seize the company account lying with City Union Bank, Salem for a sum of Rs.1,44,204/-. Pursuant to the order of this Court, the Official Liquidator sealed the company premises.

2.2. While so, one Mr.K.Subramaniam (now deceased) filed a suit in O.S.No.159 of 2005, before the II Additional District Court, Salem, for specific performance. The Ex-Directors of the company i.e., applicant, Mr.P.Thirugnanam and Mr.R.Thirugnanam are defendants in the said suit. The learned II Additional District Judge, Salem vide judgment and decree



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dated 12.02.2008 directed the said Ex-Directors of the company to execute a sale deed in favour of said Subramaniam.

2.3. After the disposal of suit O.S.No.159 of 2005, the said Subramaniam filed a petition in R.E.P.No.19 of 2009, for execution of decree dated 12.02.2008. The said R.E.P.No.19 of 2009 was dismissed by the Court below since during the pendency of execution proceedings, the subject property was sold through auction by virtue of order dated 14.08.2009 passed by this Court in C.A.No.305 of 2009 in C.P.No.260 of 2004. Aggrieved over the dismissal of R.E.P.No.19 of 2009, the said Subramaniam filed a Civil Revision Petition in C.R.P.No.3683 of 2010 before this Court and the same was allowed on 08.11.2013. Subsequently, the Court below allowed the said R.E.P.No.19 of 2009 on 05.12.2016. Therefore, the first respondent in the capacity as Official Liquidator of the company, filed a Civil Revision Petition in C.R.P.No.1064 of 2018 against said Subramaniam. During the pendency of C.R.P.No.1064 of 2018, the said Subramaniam died on 04.03.2018. After his demise, no steps have been taken to implead his legal representatives as parties in C.R.P.No.1064



of 2018. Hence, this Court vide order dated 23.06.2021, dismissed the said

C.R.P.No.1064 of 2018. Subsequently, the applicant herein filed two petitions, for restoring the said C.R.P.No.1064 of 2018 to the file of this Court and the same were allowed by this Court and thereby, C.R.P.No.1064 of 2018 was restored.

3. According to the learned counsel for applicant as well as Official Liquidator, the Ex-Directors of the company i.e., applicant, Mr.P.Thirugnanam and Mr.R.Thirugnanam had purchased the subject property in the name of then three Directors on behalf of the company, by paying the sale consideration from the funds of company account. Therefore, the subject property is a company property and the same cannot be executed. Without referring the above facts before the Court below, the said Subramaniam has obtained a decree in O.S.No.159 of 2005 in his favour. The applicant has also filed appropriate applications, for setting aside the judgment and decree dated 12.02.2008 passed by the Court below in O.S.No.159 of 2005 and for acquiring the subject property and also, for declaring the subject property as company property. Further, unless and



until, the proceedings in R.E.P.No.19 of 2009 are stayed, the said Subramaniam (third party) will execute the decree dated 12.02.2008 passed by the Court below in O.S.No.159 of 2005.

4. Considering the above facts and circumstances of the case and also, having regard to the submissions made by the learned counsel for applicant, this Court is inclined to allow this application. Accordingly, this Company Application is allowed and all further proceedings in R.E.P.No.19 of 2009 are stayed, until the disposal of C.R.P.No.1064 of 2018.

02.02.2023

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Note: Registry is directed to issue order copy on 03.02.2023



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