



WEB COPY



CRP.No.820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRP.No.820 of 2023

K.Mohan Kumar @ Mohan Krishna
(Cause title accepted vide court order
dated 09.03.2023 made in CMP.No.5035 of 2023
in CRP.SR.No.21387 of 2023)

... Petitioner

Vs.

- 1.Indian Bank,
Rep. by its Branch Manager,
Vadapalani Branch,
Chennai 600 026
- 2.Beaver Leather Industries,
By its Proprietor,
V.Gunaseelan,
No.68, Maddox Street,
Choolai, Chennai 600 012
- 3.T.L.Vasu
- 4.G.M.Logamurthy
- 5.Reliance Asset Reconstruction Company Limited,
In its capacity of Trustee of the
Reliance ARC IB Chennai Trust
Rep. by its Authorized Signatory,
Having Office at
Reliance Center,
19, Walchand Hirachand Marg
Ballard Estate,
Mumbai 400 001
Maharashtra

... Respondents



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PRAYER: Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the order of return of IA.SR.No.4658 of 2022 dated 27.01.2023 and by allowing this civil revision petition and consequently directing the learned Sub Judge, Tiruvallur to number the petition and dispose it on merits.

For Petitioner : Mr.B.Balaguru Swamy

ORDER

This civil revision petition has been filed to set aside the order of return of IA.SR.No.4658 of 2022 dated 27.01.2023.

2. The revision petitioner herein is the fourth defendant in the suit in OS.No.24 of 1996 now on the file of the Sub Judge, Tiruvallur. The said case was filed by the Indian Bank / the first respondent herein for recovery of money against four defendants. The fourth defendant is the guarantor for the loan borrowed by defendants 1 to 3. As a guarantor, he submitted his original deed dated 31.05.1983 stands in his name as security for the alleged borrowal of loan. As the principal borrower failed to pay, the suit was filed for recovery of money. During the pendency of the proceedings, out of court, there was settlement as one time settlement and this defendant settled the loan amount to the tune of Rs.3,15,000/- (principal along with interest) to the Chief Manager, Reliance ARC, the fifth respondent herein. To that effect he sent a notice on



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09.03.2018 to the fifth respondent praying to return the document which was given by him as collateral security for the said loan. DD copy stands in the name of the fifth respondent is also enclosed herewith. After receipt of the entire amount, fifth respondent issued no due certificate on 11.07.2018 in favour of plaintiff / principal borrower. Further, in that letter, they clearly stated that if any guarantor is also hereby discharged and securities released as the loan amount was fully settled. Now the petitioner filed application before the trial court. However in the trial proceedings, the document belongs to the petitioner is marked as Ex.A20. After settlement of the entire amount by this petitioner, he filed application before the trial court praying to return the title deed marked as Ex.A2. But the trial Judge returned the said application stating that original sale deed Ex.A20 was filed by the plaintiff / Indian Bank. Hence, the fourth defendant is not entitled to receive the same. Challenging the same, the present revision is preferred.

3. Now as discussed above, already entire loan due was settled by this defendant who is the guarantor much earlier on 21.03.2018 and the same was also acknowledged by the Reliance ARC/ fifth respondent on 11.07.2018, which clearly implies that the entire loan was discharged and this petitioner is entitled to receive the title deed. However, the trial Judge without applying all



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these facts and circumstances of the case, simply returned the application as such, it is unwarranted one.

4. Therefore, the trial Judge is directed to take the application on file and the petitioner herein is also directed to give notice to the Indian Bank counsel and get back the original document by giving undertaking before the trial court. The trial court is also directed to dispose of the said application within two weeks from the date of receipt of this order.

5. With the above direction, this civil revision petition is disposed of. There shall be no order as to costs. Registry is directed to return the original application to the revision petitioner within a period of one week.

31.03.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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T.V.THAMILSELVI, J.

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To

1.The learned Sub Judge,
Tiruvallur

2.Branch Manager,
Indian Bank,
Vadapalani Branch,
Chennai 600 026

3.Proprietor,
Beaver Leather Industries,
No.68, Maddox Street,
Choolai, Chennai 600 012

4.Authorized Signatory,
Reliance Asset Reconstruction Company Limited,
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