



CRP.No.3104 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3104 of 2019 and
CMP.No.20280 of 2019

- 1.Lakshmi Bakeries
- 2.Archunan
- 3.Tamilarasi

... Petitioners

Vs.

- 1.The Branch Manager,
M/s.Tamilnadu Industrial Investment
Corporation Limited,
Dharmapuri 636 702
- 2.Secretary,
Tamilnadu Cooperative Housing Society,
Krishnagiri
- 3.Surendrababu
- 4.Hemanathan
- 5.The Branch Manager,
Ragavendra Chits Funds Pvt. Ltd.,
Chennai
- 6.Zonal Manager,
Life Insurance Corporation Ltd.,
Salem

... Respondents

PRAYER:

Civil Revision petition is filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 25.06.2019 passed in Tr.OP.No.8 of 2018 on the file of the Principal District Judge, Krishnagiri.



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For Petitioners : Mr.S.Suresh
for Mr.T.Srinivasa Raghavan

For Respondents

For R1 : Mr.K.Magesh

R2 to 6 : No appearance

ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 25.06.2019 passed in Tr.OP.No.8 of 2018 on the file of the Principal District Judge, Krishnagiri, thereby dismissed the petition filed for transfer of suit filed by the respondents 3 and 4 herein in OS.No.70 of 2017 from the file of the District Munsif cum Judicial Magistrate Court, Pochampalli to the file of the Principal District Judge, Krishnagiri to try SFCOP.No.111 of 2011.

2. Heard, the learned counsel appearing on either side.

3. The petitioners borrowed loan from the first respondent herein in the year 1991 on mortgaging schedule mentioned property in SFCOP.No.111 of 2011. They committed default and as such, the first respondent filed SFCOP.No.111 of 2011 to sell the suit schedule property in order to realise the



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amount due from the petitioners. Already respondents 3 & 4 herein filed suit for partition in OS.No.43 of 2010 on the file of the District Munsif Court, Pochampalli without impleading the first respondent as party and obtained ex parte decree. In fact, previously they filed suit for partition in OS.No.114 of 1997 which was subsequently withdrawn as settled out of court. Again, they filed suit for partition in OS.No.63 of 2000 on the file of the Sub Court, Krishnagiri which was transferred and renumbered as OS.No.12 of 2004 on the file of the Principal District Court, Krishnagiri and the same was also subsequently dismissed. Once again, the sister of the second petitioner herein filed another suit for partition in OS.No.278 of 1998 which was also transferred and renumbered as OS.No.123 of 2000 on the file of the Principal District Judge, Krishnagiri and the same was also subsequently dismissed.

4. These are the suit filed in order to prevent the first respondent from selling the mortgaged property in order to realise the loan amount. Again, respondents 3 and 4 filed suit in OS.No.70 of 2017 on the file of the District Munsif Court, Pochampalli for declaration. It is also a collusive suit. While pending the suit, the petitioners herein filed petition to transfer the said suit to the file of the Principal District Judge, Dharmapuri to try along with the



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SFCOP.No.111 of 2011 filed by the first respondent herein. Both the proceedings are completely different one. Though the property which was already mortgaged with the first respondent also sought for declaration in the suit filed by respondents 3 and 4 herein, these petitions are filed only to drag the proceedings since the proceedings initiated by the first respondent is pending from the year 2011 in order to realise the loan amount from the petitioners herein. Therefore, the court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the court below.

5. Accordingly, this Civil Revision Petition is dismissed. However, the Principal District Judge, Krishnagiri, where FSCOP.No.111 of 2011 is now pending, is directed to complete the entire trial, within a period of six months from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

23.02.2023

Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Principal District Judge,
Krishnagiri
- 2.The Branch Manager,
M/s.Tamilnadu Industrial Investment
Corporation Limited,
Dharmapuri 636 702
- 3.Secretary,
Tamilnadu Cooperative Housing Society,
Krishnagiri
- 4.The Branch Manager,
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