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S.A.No.495 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

S.A.No.495 of 2017
and
CMP.No.12032 of 2017

Ramasamy

...Appellant

Vs.

Indian Bank, Overseas Branch
Old address No.6, Explanade Road
Explanade, Chennai 108
Now functioning at Krest Building
No.2, Jahangir Street, Chennai 600 001.

...Respondent

Prayer: Second Appeal filed under Section 100 of the Code of Civil Procedure, to set aside the decree and judgment dated 25.06.2009 in OS.No.205 of 2006 by the learned District Munsif Judge, Tambaram and the same was confirmed in First Appeal No.142 of 2009 on the file of the Sub-Court, Tambaram.

For Appellant : Mr.B.Rajkumar Ashok Singh

For Respondent : Mr.V.Ravi



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JUDGMENT

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The unsuccessful defendant who suffered a preliminary decree for recovery of money based on the mortgage deed has come up with this Second Appeal.

2. When the matter is taken up for hearing, the learned counsel for the appellant filed an undertaking affidavit stating that he is willing to pay the entire principal amount of Rs.16804.20.00 with the interest at the rate of 6% p.a. as per clause -1 of the decree within a period of two weeks from the date of disposal of the Second Appeal.

3. The relevant averment in the affidavit filed by the appellant reads as follows :

“3. I submit that I am ready to pay the decreed amount along with the interest mentioned in the decree and judgment. Therefore, I have worked out the interest from 11th day Oct 2002 to 31st day of October 2023 the decreed amount Rs.16,802.20 with interest 6% per annum total comes to Rs.38,056/-. From 11th day of October 2002 to 31st December 2002 interest comes to Rs.252/- and interest from 01.01.2003



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to 31.10.2023 comes to Rs.21,254/-, total comes to 21,506/-.

Hence, decreed amount Rs.16,802.20 and interest Rs.21,254 total comes to Rs.38,056/-. I hereby undertake to pay the same within two weeks from this Court order in S.A.No.495 of 2017. And direct the respondent to accept the same and to direct to the District Munsif Judge to return the documents marked as an Exhibits A22, A23, A24, in Suit No.205/2006 to the appellant herein and defendant in the suit and thus render justice.”

4. The above undertaking affidavit filed by the appellant is recorded.

5. Taking into consideration of the intervening Pooja Holidays, the appellant is granted four weeks time from today to deposit the principal sum of Rs.16804.20. with interest at the rate of 6% p.a., from the date of plaint/claim to the date of deposit. The Second Appeal is disposed of accordingly. It is made clear, in case the appellant fails to deposit the entire sum due as per Clause-1 of the decree within a period of four weeks from today, the respondent is at liberty to execute the decree in the manner known to law. It is needless to say that after payment of the entire decree amount and



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full stratification of the decree, the appellant/defendant is entitled to get back the original title deeds deposited by him with the respondent's bank.

6. The learned counsel for the respondent has no objection for the same.

7. The appellant is at liberty to make appropriate application, after full sanctification of the decree, before the trial Court for return of Ex.A22, Ex.A23, Ex.A24 and Ex.A26. Since, the learned counsel for the respondent has no objection for return of above said documents after satisfaction of decree, the trial Court shall pass necessary orders for return of said documents to appellant immediately.

8. With these observations, this Second Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

17.10.2023

Index : Yes/No
Internet : Yes/No
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dna
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To

- 1.The District Munsif Judge, Tambaram.
- 2.The Sub-Court, Tambaram.



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S.SOUNTHAR, J.
dna

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