



Rev.Aplc.(MD) No.56 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2023

CORAM: **JUSTICE N.SESHASAYEE**

Rev.Aplc.(MD) No.56 of 2020

Sunder Raj

.... Petitioner / Respondent

VS

Rajarethinam

.... Respondent / Petitioner

Prayer : Review Application filed under Order 47 Rule 1 & 2 read with Section 114 of CPC., praying to review the order dated 07.10.2020 made in CRP(MD) No.2629 of 2016 on the file of High Court, Madurai Bench, Madurai.

For Petitioner : Mr.T.Arul

For Respondent : Mr.S.Ramasamy

ORDER

(Through Video Conferencing)

This application is filed by the respondent in CRP.(PD).(MD) No.2629 of 2015 to review the order of this Court dated 07.10.2020.

2. The learned counsel for the respondent/review applicant made the



following statement :

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(a) The review applicant/respondent in revision petition has laid a suit for bare injunction against the respondent herein in O.S.No. 88 of 2015, for he having purchased the suit property therein in an auction held under SARFAESI Act. The property indeed belonged to the defendant in the suit, who is the revision petitioner. However, the entire order dated 07.10.2020 proceeds on the premise that the revision petitioner is the auction purchaser/plaintiff, whereas according to the review applicant, it is the respondent in the revision petition and not the revision petitioner, who is the successful purchaser under the SARFAESI auction.

(b) In paragraph No.4 of the order dated 07.10.2020 in CRP.(PD) (MD)No.2629 of 2015, instead the advantage must be transmitted to the respondent/plaintiff, it is wrongly stated that it should go to the revision petitioner herein.

3. Heard both sides. This Court is in agreement with the statement made by the learned counsel for the review applicant that it appears that had proceeded the entire order assuming that the revision petitioner is the



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auction purchaser/plaintiff and the respondent therein as the defendant in

O.S.No.88 of 2015, which ought to be vice-versa. Hence, the order dated

07.10.2020 stands modified as below :

1. The revision petitioner herein owns a piece of property, which he had provided as collateral security to M/s.Indian Bank. While so, on 04.02.2013, the Bank through his authorised officer issued a sale notice to the revision petitioner and promptly the revision petitioner has moved the Debt Recovery Tribunal and initiated necessary proceedings to quash the said notice. Ultimately the auction did take place in which the *respondent/plaintiff* was the successful bidder.

2.The respondent herein thereafter, laid a suit in O.S.No.88 of 2015 seeking a decree of bare injunction against the revision petitioner herein not to disturb his peaceful possession. The revision petitioner now would move this Court with this present petition to strike off the pleadings in terms of Section 34 of the SARFAESI Act.

3.Heard the learned counsel for the revision petitioner as well as the respondent.

4.This Court plainly is not impressed with the conduct of the *revision petitioner/defendant* in the suit. What the respondent herein obtained is stated to such rights that has accrued in favour of the bank and subject to the SARFAESI



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proceedings initiated by it and if the respondent manages to succeed before the Debt Recovery Tribunal, then the result and benefit necessarily has to be transmitted to the advantage of the *respondent/plaintiff*.

5. Accordingly, this Civil Revision Petition is *dismissed*. No costs. Consequently, connected miscellaneous petition is closed.

4. In view of the above, this review application is allowed and ordered as above. No costs. Registry is required to issue fresh copy of the order in CRP.(PD) (MD)No.2629 of 2015, free of charges.

10.02.2023

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

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N.SESHASAYEE. J.

CM

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