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Comp.A.Nos.34, 35 and 36 of 2024

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in
C.P.No.260 of 2004

C.SARAVANAN, J.

These applications have been filed by the Director of the Company which was ordered to be wound up on 01.04.2008 in C.P.No.260 of 2004.

2. These applications have been filed in the light of an *ex parte* decree secured by one K.Subramaniam against the applicant/respondent and the other Directors of the Company under liquidation viz., M/s.Selvarani Chit Funds Private Limited in O.S.No.159 of 2005 before the Additional District Court (Fast Track Court No.1), Salem which was purchased in the name of the Directors on 13.07.1994 vide a Sale Deed registered as Doc.No.1463/1994.

3. It appears that the Directors of the Company under liquidation had signed an Agreement of Sale with the said K.Subramaniam on 18.11.2002 and since the Directors of the Company failed to execute the Sale Deed, the said K.Subramaniam filed O.S.No.159 of 2005 before the Additional District Court (Fast Track Court No.1), Salem. The Original Suit was decreed *ex parte* on 12.02.2008. Pursuant to the aforesaid decree, the



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Decree Holder (the plaintiff in O.S.No.159 of 2005) also filed E.P.No.19 of 2009 pursuant to which, a Sale Deed has also been registered in favour of the second to fourth respondents.

4. It is, at this stage, further steps have been taken to take possession of the property from the applicant herein who appears to be in possession of the said property. The applicant is the Ex-Director of M/s.Selvarani Chit Funds Private Limited.

5. It appears that in the course of long history litigation since 2008, the legal heirs of the deceased Decree Holder in O.S.No.159 of 2005 before the Additional District Court (Fast Track Court No.1), Salem had also attempted to take possession of the property under Order XXI Rule 35 of the Code of Civil Procedure, 1908 read with Section 151 of the Code of Civil Procedure, 1908. An order came to be passed in R.E.P.No.19 of 2009 on 05.12.2016. Aggrieved by the same, the Official Liquidator had also filed CRP(NPD).No.1064 of 2018.

6. The said Civil Revision Petition was dismissed by this Court vide



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its Order dated 24.08.2023.

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7. The case of the applicant/respondent appears to be that though the property was purchased on 13.07.1994 in the name of the Directors of the Company under liquidation, it is indeed the property of the Company under liquidation and therefore the Official Liquidator should charge of the same. That apart, it is submitted that the originals of the Sale Deed dated 13.07.1994 is still with the Office of the Official Liquidator.

8. These applications are opposed by the Official Liquidator stating that there are no records to substantiate that the property is in the name of the Company or the Company had funded the purchase of the aforesaid assets.

9. I have considered the arguments advanced by the learned counsel for the applicant/the Ex-Directors of the Company under liquidation.

10. In my view, there is no merits in Comp.A.No.34 of 2024 filed by



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the applicant/respondent. This Court cannot allow the applicant/respondent to restrain the second to fourth respondents from taking possession of the property whether directly or indirectly as not only the suit filed by the plaintiff Late K.Subramaniam in O.S.No.159 of 2005 before the Additional District Court (Fast Track Court No.1), Salem was decreed on 18.11.2002 but also a Sale Deed has been executed and R.E.P.No.19 of 2009 was ordered as early as 05.12.2016.

11. Consequently, Comp.A.No.34 of 2024 filed to direct the Official Liquidator to file a Special Leave Petition against the Order dated 24.08.2023 of this Court in CRP(NPD).No.1064 of 2018 is liable to be dismissed and is accordingly dismissed.

12. Since Comp.A.No.34 of 2024 is being dismissed, Comp.A.No.35 of 2024 and Comp.A.No.36 of 2024 are also liable to be dismissed and are accordingly dismissed.

02.02.2024

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