



Comp.A.No.84 of 2022
in
C.P.No.279 of 2016

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Krishnan Ramasamy,J.,

Ms.B.Ambili, learned Deputy Official Liquidator would submit that by virtue of the order passed by this Court in Company Petition No.279 of 2016 dated 18.10.2016, she has been appointed as Provisional Liquidator of the petitioner-Company, M/s.KRM Kumaragam Chits Pvt. Ltd., pursuant to which, she took charge over all the properties and assets of the Company in liquidation; that based on the Statement of Affairs filed by the ex-Director of the Company in liquidation, one Mr.S.Deenadayalan, was shown as a debtor for a sum of Rs.3,87,000/, therefore, she issued a demand notice to the said debtor, calling upon him to deposit the due amount together with interest, however, despite reminder notice sent to the said debtor, he has not come forward to make the payment, hence, the present Application is filed for recovery.

2. Today, when the matter is taken up, the learned Deputy Official Liquidator would submit that there are no other records available with the Chit Company, except the document, viz. the Mortgage Deed dated 09.11.2015 executed by respondent, S.Dheenadayalan in the name of the Chit Company, for the purpose of securing loan and to substantiate her contention, she has also marked the said Mortgage Deed as "Annexure-D" in the report filed by her. However, she fairly submitted that in the Statement of Affairs filed by the Director of the Company, nothing has been mentioned with regard to any



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amount due to be paid by the respondent herein. Therefore, she seeks for appropriate orders in this regard.

3. Mr.S.Venkatesh, the learned counsel for the respondent-S.Deenadayalan would submit that in the present case, the chit transaction was started on 24.06.2014 and ended during the month of February, 2016, i.e. for nearly 20 months and the chit value was about Rs.5 lakh; that the respondent executed a Mortgage Deed on 09.11.2015, which was registered as Document No.6277 of 2015 at the time of receipt of the loan for a sum of Rs.4,00,000/-, and he is liable to pay the balance sum of Rs.40,000/-, however, pursuant to the chit conducted on 10.09.2015, he was declared as successful bidder of the chit amount of Rs.4,42,000/- and in order to substantiate his contention, he also produced the photocopy of the Chit Book before this Court for reference and submitted that there is no amount due to be paid by the respondent and prayed this Court to issue appropriate direction for releasing the mortgage deed in his favour.

4. Heard the learned Deputy Official Liquidator who has been appointed as Provisional Liquidator for the Company, which was in liquidation and the learned counsel for the respondent and this Court also perused the report filed by the learned Official Liquidator and the document produced by the respondent.

5. Thus, on perusal of the photocopy of the Chit Book produced by the learned counsel for the respondent, which was also verified by the learned Deputy Official Liquidator in the open Court, it is clear that the entire amount



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has been paid by the respondent, as he was declared as successful bidder of the chit, which was conducted on 10.09.2015.

5.1 Further, the learned Deputy Official Liquidator submitted that the entries made in the Chit Book are matching with the document available with her, viz., the Mortgage Deed dated 09.11.2015, which was marked as Annexure-D to the report filed by her, and in the Chit Book, the name of the respondent has been mentioned. Under these circumstances, this Court is of the considered view that the present Petition brought against the respondent is based on the mortgage deed for the purpose of securing the balance chit amount. However, since the petitioner-Company got wound up and the learned Official Liquidator was not able to produce any other documents with regard to the Chit Transaction, which was started on 24.06.2014 and ended on February, 2016, except, the mortgage deed executed by the respondent dated 09.11.2015, whereas, the respondent has produced the document, viz., the Chit Book, under these circumstances, this Court has to go by based on the documents produced by the respondent, viz., the Chit Book, since, the entries made in the Chit Book matches with the entries made in the Mortgage Deed, which was executed by the respondent in favour of the Company, and in the Chit Book, the name of the respondent is also mentioned stating that the entire chit amount has been paid, which fact, was even admitted by the learned Official Liquidator. Therefore, this Court is of the view that the present claim raised by the Official Liquidator is not proper and the petition is liable to be dismissed.

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6. Accordingly. the Company Application is dismissed. However, while dismissing the claim petition filed by the learned Deputy Official Liquidator for recovery, this Court directs the Official Liquidator to release the Mortgage Deed in favour of the respondent within a period of four weeks from the date of receipt of a copy of this order.

12.07.2024

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