



C.R.P.(NPD).No.1438 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.1438 of 2021

and

C.M.P.No.11278 of 2021

B.Vijayakumar

... Petitioner

VS

1.R.Chandrasekar

2.N.Gajendran

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Order and Decree dated 27.02.2018 made in E.A.No.223 of 2017 in E.A.No.188 of 2014 in E.P.No.28 of 2005 in O.S.No.4972 of 2002, on the file of the learned Principal District Munsif Court, Alandur.

For Petitioner : Mr.T.Paranthaman

For R1 : Mr.G.Appavu

For R2 : Left



C.R.P.(NPD).No.1438 of 2021

ORDER

WEB COPY

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioner seeking issue of Subpoena to Authorised Officer under SARFEASI Act, 2002, Repco Home Finance Limited to cause production of documents listed in the petition.

2. The petitioner herein is the claim petitioner in E.A.No.188 of 2014. The 1st respondent herein obtained a decree for money against the 2nd respondent in O.S.No.4972 of 2002 and the same is put into execution in E.P.No.28 of 2005. The petitioner claiming himself as a purchaser of the property under SARFAESI proceedings filed claim petition in E.A.No.188 of 2014.

3. The learned counsel for the petitioner submits that possession notice was issued on 10.06.2014 under SARFAESI Proceedings even prior to the attachment by the Civil Court and in order to produce all relevant documents, regarding initiation of SARFAESI Proceedings, the petitioner wants to examine the Authorised Officer of the Repco Home Finance Limited. Hence,



C.R.P.(NPD).No.1438 of 2021

the instant application has been filed under Order 16 Rule 1 and 6 of the Civil Procedure Code for issuing Subpoena to the Officer concerned. The said application has been dismissed by the Court below on the ground that the petitioner failed to mention the name of the said witness in the list of witness and therefore, the present application was not maintainable.

4. The petitioner wants to examine the Authorised Officer of the Repco Home Finance Limited, just to produce certain material documents relating to SARFAESI Proceedings under which he obtained Sale Certificate. Therefore, this Court feels in order to give opportunity to the petitioner to prove his case in claim application, issue of Subpoena to the Authorised Officer concerned shall be allowed.

5. The learned counsel for the respondent submits that the present application has been filed only to drag on the execution proceedings.

6. It is submitted by the learned counsel for the petitioner that PW.1 is on the witness box and his examination is not over. Therefore, the Court



C.R.P.(NPD).No.1438 of 2021

below is directed to complete the examination of PW.1 within a period of two weeks from the date of receipt of copy of this order. Thereafter, the Court below is directed to issue Subpoena to the Officer concerned within a period of two weeks. The petitioner shall co-operate with the Court below for completion of the examination of the Officer concerned within a period of six weeks thereafter.

7. With these directions, the Civil Revision Petition stands allowed. No costs. Consequently, the connected civil miscellaneous petition is closed.

31.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm



C.R.P.(NPD).No.1438 of 2021

To

WEB COPY
The Principal District Munsif Court,
Alandur.



WEB COPY



C.R.P.(NPD).No.1438 of 2021

S.SOUNTHAR, J.

dm

C.R.P.(NPD).No.1438 of 2021

31.01.2024