



Rev.Appl.Nos.119 & 120 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

Rev.Appl. Nos.119 & 120 of 2023

and

C.M.P.Nos.16023 & 16026 of 2023

M.Sumathi

... Applicant
in both review applications

Vs.

1.Kothandan

2.K.Balasundar

3.IDFC First Bank Ltd.,
KRM Tower, 7th Floor,
No.1, Harrington Road,
Chennai 600 031.

... Respondents
in both review applications

Prayer : Review Applications in Rev.Appl.Nos.119 and 120 of 2023 filed
under Order 47 Rule 1 read with Section 114 of Code of Civil Procedure to

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review the judgment dated 01.06.2023 passed in Cont.A.Nos.2 and 1 of 2023, respectively, on the file of this Court.

For Petitioner : Mr.P.Wilson
Senior Counsel
for M/s.P.Wilson Associates
in both review applications

For R2 : Mr.K.Ashok Kumar

For R3 : No appearance

R1 : No such person

COMMON ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

These Review Applications are filed to review the common order passed by this Court in Cont.A.Nos.1 and 2 of 2023, dated 01.06.2023.

2.It is not necessary to elaborate the entire facts of the case. The Contempt Appeals were directed against the order of the learned Single Judge in Cont.P.Nos.1104 and 1165 of 2021 to purge the appellant from the contempt proceedings by setting aside the order, dated 21.12.2022, in



Cont.P.Nos.1104 and 1165 of 2021. The Contempt Petitions were filed alleging willful disobedience of the interim order, dated 27.08.2019, made in W.M.P.No.24736 of 2019 in W.P.No.25162 of 2019, restraining the review applicant from alienating the properties.

3.It is admitted that a mortgage was created by deposit of title deeds in respect of the property, when the order was in force. It was the contention of the contemnor, the applicant in review application, that the alienation was before she received the copy of the order and that she had no knowledge about the interim order passed by Writ Court. Despite the learned Single Judge gave sufficient time to discharge the mortgage, the contemnor did not redeem the mortgage. Hence, the Contempt Petitions were allowed by imposing a punishment of imprisonment in civil prison for three months as well as fine of Rs.25,000/-.

4.Challenging the punishment, the contemnor filed the Contempt Appeals before this Court. Even when the appeals were entertained by this Court, the appellant was given time to redeem the mortgage. Since the



appellant could not discharge the mortgage, this Court dismissed the Appeals by judgment dated 01.06.2023. To review the judgment in the Contempt Appeals, the above Review Applications are filed.

5.It is admitted before this Court that the review applicant was imprisoned for a period of 15 days, pursuant to the order passed in the Contempt Appeals. It is to be noted that the property which is the subject matter of this *lis* was mortgaged for a huge sum of Rs.2.5 Crores. Therefore, the excuse was that the applicant was unable to mobilise the funds.

6.At the time of admission of the review applications, the learned Senior Counsel appearing for the review applicant/appellant in both cases referred to the health condition of the applicant and the fact that, though a sum of Rs.62,50,000/- was stated to be due to the Bank in favour of whom the property was mortgaged, as on the date when the affidavit was filed, i.e., on 22.06.2023, the entire balance amount was paid subsequently. It is further stated that the Bank had agreed to accept a sum of Rs.1,50,00,000/-



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under One Time Settlement. The No Due Certificate issued by IDFC First Bank, dated 13.07.2023, was also produced before this Court to show that the Bank has received a sum of Rs.1,50,00,000/- under One Time Settlement. The Bank has issued a receipt, which is also registered as required in law. This Court, recording the fact that the applicant had obtained No Due Certificate issued by IDFC First Bank, dated 13.07.2023, on the basis of the substantial payment received under OTS, and also taking note of the fact that the applicant is a house wife and suffering from heart ailments, suspended the order of punishment, by order dated 20.07.2023. Apart from the amount paid and settled to the Bank, this Court also directed the review applicant to pay a sum of Rs.1,00,000/- by way of cost within two weeks from the date of the order, i.e., 20.07.2023. On 20.07.2023, while suspending the order of punishment, this Court issued notice to the respondents in the review applications and to list the above review applications after four weeks.

7. Accordingly, the review applications are listed today. Learned counsel appearing for the 2nd respondent, who is the contempt petitioner, has



no serious objection for purging the review applicant from contempt.

Learned Senior Counsel appearing for the review applicant has explained the reason for inability to mobilise the funds for discharging the entire mortgage. From the sequence of events, it is not as if the review applicant did not make any attempt to discharge the mortgage. Part payments were made even before the applicant approached this Court, on the date when the review applications were filed. Though the applicant admits that the mortgage was created after the interim order, there is no material to indicate that the mortgage was after service of copy of the order of interim injunction on the applicant. When the applicant realised her mistake, she has started making payments and the review applications were entertained only after ensuring that the applicant had cleared the entire mortgage. The property, which is the subject matter of this *lis*, is now free from any encumbrance. Considering the fact that the applicant is a lady and suffering from heart ailments, this Court is of the view that it is a fit case in which the applicant can be purged from contempt proceedings accepting her explanation and subsequent developments.



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8. Accordingly, these Review Applications are allowed. The review applicant/contemnor is purged from the contempt proceedings.

9. It is made clear that any observation or order of this Court in the contempt proceedings shall not prejudice the rights of the applicant in contesting the writ petition on merits. The suit or writ petition shall be disposed of uninfluenced by any of the observations made in the interim order in the writ petition or in the contempt proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

(S.S.S.R., J.) (C.K., J.)
22.08.2024

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Internet : Yes

Index : Yes / No

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Note to Registry : Issue order copy on 30.08.2024.



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