



Cont.P.No.634 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

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Marg Ltd.

Rep.by its Managing Director, G.Ramakrishna Reddy,
No.57/2B, Sri Sai Subhodaya Apartments,
East Coast Road, Thiruvanmiyur,
Chennai – 600 041.

... Petitioner

Versus

1.M/s.South India Corporation (Agencies) Ltd.,
South India House
73, Armenian Street,
Chennai – 600 001.

2.S.Vasudevan
Managing Director,
South India Corporation (Agencies) Ltd.,
South India House,
73, Armenian Street,
Chennai – 600 001.

3.State Bank of India,
Commercial Branch,
NSC Bose Road, Chennai



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- 4.State Bank of India,
Bazullah Road Branch,
T.Nagar,
Chennai – 600 017.
- 5.M/s.DSRK Holdings (Chennai) Pvt. Ltd.,
P.Kuppuswamy Complex,
34/8, Rajabathar Street,
T.Nagar, Chennai – 600 017
Presently at
No.87, 4th Floor, GN Chetty Road,
T.Nagar, Chennai – 600 017.
- 6.M/s.Hacindaa Infotech and realtors P. Ltd.
Rep.by it Managing Director
Mr.Narendrakumar Madanlal Sheth
Rani Sethai Hall, 5th Floor
No.603 Anna Salai Chennai - 600 006.
- 7.P.Rajakrishnan Rajagopal
Managing Director M/s.DSRK Holdings Chennai
Private Ltd. P.Karuppuswamy Complex 34/8
Rajabathar Street T.Nagar Chennai – 600 017.
- 8.Revathi Ramachandran
Authorised Signatory M/s.DSRK Holdings
(Chennai) Priate Ltd. P.Kuppuswamy Complex
348 Rajabathar Street T.Nagar Chennai - 600 017.
- 9.Embassy Property Developments Private Limited
Having registered office
at 1st Floor, Embassy Point No.150,
Infantry Road Bangalore - 560 001.
Karnataka.



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10. Mr. Jitendra Mohandas Virwani
Managing Director Embassy Property
Developments Private Limited
341 Embassy, Woods 6/A Cunnigham Road
Vasanth Nagar
Bangalore - 560 001
Karnataka.
11. Universal Trusteeship Services Ltd.
No.6 6th Street CIT Colony
Mylapore Chennai - Tamil Nadu-600 004.
Also At:
B-1002, Marathon Futurex
10th Floor, N.M.Joshi Marg
Lower Parel, Mumbai – 400 013.
12. ICICI Bank
ICICI Bank Towers
Bandra Kurla Complex
Mumbai - 400 051
Also at:
No.1 Sobha Pear
Commissariat Road
Ashok Nagar Bangalore - 560 025.
13. The Chennai Metropolitan
Development Authority (Proposed party)
Thalamuthu Natarajan House
01, Gandhi Irwin Road
Ansari Estate, Egmore
Chennai Tamil Nadu - 600 008.
14. The Sub-Registrar
Neelankarai Sub Registrar Office
Neelankarai Chennai.



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15.Narpat Singh Choraria

Director

Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road, Vasanth Nagar

Bangalore - 560 052.

16.Gopinath Ambadithody

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.

17.Chandra Das Sitaram

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.

18.Karan Virwani

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.

19.Aditya Virwani

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.

20.Tanya John,

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.

21.Devika Priyadarshini

Director Embassy Property Developments

Private Limited No.332 Embassy Woods 6 A

Cunningham Road Vasanth Nagar Bangalore - 560 052.



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22. Radhakrishnan Yuvaraajann

Director DSRK Holdings (Chennai) Private
Ltd. No.87 4th Floor GN Chetty Road T.
Nagar Chennai - 600 017.

23. Yuvarajan Abhinesh

Director DSRK Holdings (Chennai) Private
Ltd. No.87 4th Floor GN Chetty Road T.
Nagar Chennai - 600 017.

24. Rajesh Ramchand Bajaj

Director DSRK Holdings (Chennai) Private
Ltd. No.87 4th Floor GN Chetty Road T.
Nagar Chennai - 600 017. ... Respondents

Prayer: This Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent Nos. 2,5,7 to 10 and 15 to 24 herein for the wilful and deliberate disobedience of the order dated 08.12.2010 in OA.No.1218 of 2010 in CS.No.811 of 2004.

For Petitioner : Mr.S.Ravi, Senior Counsel for
Mr.NP.Vijayakumar

For Respondents : Mr.Vijay Narayan
Sr.Counsel for M/s.Varuni S.Mohan – R9
Mr.Abishek Jenasen – R5.
M/s.Lavanaya Venkatesh – R1.



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ORDER

This Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondent Nos. 2,5,7 to 10 and 15 to 24 herein for the wilful and deliberate disobedience of the order dated 08.12.2010 in OA.No.1218 of 2010 in CS.No.811 of 2004.

2. The present contempt petition is predicated on the premises that Para 10 of the aforesaid order has been violated by the 5th respondent inasmuch as, the 5th respondent has created mortgage of the property which is the subject matter of the above suit.

3. This Court had admitted this contempt petition and had ordered notice on the respondent and thus the respondents are before this Court. On earlier occasion an order came to be passed on 21.12.2023 wherein the 5th respondent who appears to be the contesting defendant in the suit undertook to file a report along with necessary documents. An affidavit has been filed the 5th respondent herein who is the 5th defendant in the suit. In the affidavit filed by the 5th respondent, the 5th respondent has stated that in respect of eight (8) mortgages referred to in the contempt



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petition, the mortgages were all discharged.

4. Para 8 of the affidavit dated 06.02.2024 filed by the 5th respondent is extracted hereunder:

“With respect to the averments made in paragraph 17 and 18, it is humbly submitted as follows:

a. Memorandum of Entry dated 09.03.2013 (Doc no. 1993 of 2013) The mortgage has been cancelled by way of cancellation of mortgage deed dated 09.03.2016 registered as doc. no. 1119 of 2016.

b. Memorandum of deposit of title deeds dated 02.09.2016 (Doc. no. 6655 of 2016) - Receipt evidencing discharge of mortgage dated 28.04.2021 registered as doc. no. 4320 of 2021.

c. Memorandum of deposit of title deeds dated 21.11.2019 (doc. no. 9760 of 2019) - Receipt evidencing discharge of mortgage dated 28.04.2021 registered as doc. no. 4321 of 2021.

d. Indenture of mortgage dated 27.04.2021 (Doc. no. 4322 of 2021) Receipt evidencing discharge of mortgage dated 27.10.2022 registered as doc. no. 12386 of 2022.

e. Indenture of mortgage without possession dated 28.04.2021 (doc. no. 4323 of 2021) - Deed of release dated 11.08.2022 registered as doc. no. 9298 of 2022.

f. Memorandum of deposit of title deed dated 23.08.2021 (Doc. no. 7404 of 2021) - Receipt evidencing discharge of mortgage dated 27.10.2022 registered as



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doc. no. 12384 of 2022.

g. Memorandum of deposit of title deeds dated 27.06.2022 (doc. no. 7616 of 2022) - Said document was rectified vide document dated 23.09.2022 registered as doc. no. 1107 of 2022 and the receipt evidencing discharge of mortgage dated 27.10.2022 is registered as doc. no. 12386 of 2022.

h. Indenture of mortgage without possession dated 11.08.2022 (doc. no. 9299 of 2022) - Receipt evidencing discharge of mortgage dated 05.12.2022 registered as doc. no. 14458 of 2022.

Therefore, it is humbly submitted that all the mortgages that the Petitioner has alleged have been executed in violation of the order dated 08.12.2010 have all been discharged by registered deeds as set out above. In addition, it is humbly submitted that at the time of execution of these mortgages, all the mortgagees conducted their due diligence and were clearly informed about the pendency of the present Suit before this Hon'ble Court. Therefore, it is humbly submitted that there is absolutely no violation of the order dated 08.12.2010 issued by this Hon'ble Court either in letter or spirit."

5. The learned Sr.Counsel for the contempt petitioner would submit that apart from the mortgages to the above eight mentioned persons, the 5th respondent has now created two other mortgages in favour of M/s.Piramal Trusteeship Services Pvt. Ltd., on 10.12.2022 vide



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registered document No.14669 of 2022 and 25.09.2023, 27.09.2023 and 30.09.2023 registered as Document No. 12722 of 2023. Which was in violation of the Court's Order.

6. It is further submitted that not only the order passed by this Court on 08.02.2010 was violated by the 5th respondent but also the order passed by this Court on 21.12.2022. It is submitted that the 5th respondent ought to have disclosed the same in the said affidavit filed before this Court today.

7. That apart to be submitted that the purport of para 10 of the order dated 08.12.2010 was to protect not only the interest of 3rd parties but also indirectly the petitioner who is the plaintiff in the above suit. It is submitted that the mortgages have been created only with a view to protect the rights of the petitioner and innocent third parties.

8. I have considered the arguments advanced by the learned counsle for the contempt petitioner and the learned counsel for the respondents and persued all the available materials on record.



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9. In my view there is no contempt made out based on the directions contain in para 10 of the order passed on 08.12.2010. Although it would have been appropriate for the 5th respondent to give the particulars of the further mortgages created.

10. It is made clear that when the order was passed on 21.12.2023, the Court had not looked into the reocrds. It merely heard the counsel and recorded the submissions of the 5th respondent that the 5th respondent would be filing a report by giving the particulars of the mortgages created.

11. Be that as it may. I am of the view that there is no case made out of contempt of this Court's order dated 08.12.2010. Therefore, this Contempt Petition is liable to be dismissed. It is noticed that the suit is of the year 2004 and is still languishing in the Registry and further Judicial time has been wasted in this Contempt Petition. The nature of the suit is of commercial dispute and therefore, the case should be referred to the Commercial Division. In fact, the order passed by this Court on



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08.12.2010 in para 17 also records that the suit should be disposed off within a period of six (6) months.

12. While dismissing this contempt petition, I leave it open for the contempt petitioner to implead 3rd parties in whose favour mortgages have been created in the above suit so that the concern of the contempt petitioner as also the mortgager can be suitably addressed in the said case.

13. I direct the Registry to list CS.No.811 of 2004 before the Commercial Division on 11.03.2024.

14. With the above observations and directions, this Contempt Petition stands closed.

22.02.2024

Index : Yes/No
Speaking/Non-Speaking Order
Neutral Citation : Yes/No
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C.SARAVANAN, J.

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