



Second Appeal No.161 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

Second Appeal No.161 of 2019
and C.M.P.No.3022 of 2019

M.Venugopal

.... Appellant

-Vs-

1.Sri Kaalihambal Benefit Fund Ltd.,
No.281/18, T.H.Road
Chennai - 600 021.

2.Sri Raj & Co.,
No.7, Sukurama Chetty Street
1st Floor, Chennai 600 001.

.... Respondents

Prayer : Second Appeal under Section 100 of C.P.C., against the judgment and decree dated 13.08.2015 in A.S.No.355 of 2013 passed by the II Additional City Civil Court, Chennai, setting aside the judgment and decree dated 28.06.2013 made in O.S.No.6822 of 2010 on the file of the XIII Assistant City Civil Court, Chennai.

For Appellants	: Mr.H.Prosper
For Respondents	: Mr.R.Krishnasamy - for R1 R2 - Served, no appearance

J U D G M E N T

This Second Appeal arises against the judgment and decree of the Court of the II Additional City Civil Court, Chennai in A.S.No.355 of 2013 in confirming



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the judgment and decree of the learned the XIII Assistant City Civil Court, Chennai dated 28.06.2013 made in O.S.No.6822 of 2010.

For the sake of convenience, the parties will be referred to as per their ranking in the suit.

2. O.S.No.6822 of 2010 is a suit for redemption of mortgage executed by one Swaminathan in favour of the defendants. Surprisingly, the suit for redemption came to be dismissed and unfortunately, confirmed in appeal.

3. When the Second Appeal came up for disposal before me, I pointed out to Mr.Krishnasamy that a suit for redemption of an admitted mortgage cannot be dismissed and the Court should pass a preliminary decree directing the plaintiff to make the payment under the mortgage. I therefore requested him to find out as to the outstanding amount under the two loans, which is the subject matter of the suit. Mr.Krishnasamy submitted a report saying the amount that is liable to be paid is Rs.5,23,842/-.

4. Mr.H.Prosper, learned counsel appearing for the appellant / third party / brother of the plaintiff would plead that the loan that had been taken was not a substantial amount and only Rs.50,000/- each and therefore he requested for a



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reduction in the amount. The agreement on reduction is between the plaintiff and the defendant and the Court does not play a role to reduce the amount.

Therefore, I left it to the good office of Mr.R.Krishnasamy to find out from his client if they are willing to take reduced amount in full quit of the amounts due under the mortgage.

5. On 18.06.2024, I recorded the fact that Mr.Krishnasamy was able to convince his client and get a discount of nearly Rs.2,00,000/- for the plaintiff. Mr.Krishnasamy submitted that if an amount of Rs.3,23,000/- is paid, then the defendants would treat it as discharge of the entire amount due under the two mortgages in P.L.Nos.292 and 372. Being a suit for redemption, I granted time to the plaintiff to make the payment and I adjourned the matter to today.

6. When the matter was taken up for hearing, both the counsel in unison would submit that the entire amount due under both the loans had been discharged on 20.07.2024. The receipt issued by the first defendant has been produced before this Court. A perusal of the same shows the entire amount of Rs.3,23,000/- agreed between the parties has been paid and the property loans have been discharged.



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7. Consequently, nothing remains to be adjudicated in the suit. The defendants will be entitled for a declaration that the loans granted under P.L.292 and 372 have been extinguished. The first defendant shall return the documents to the appellant on getting an undertaking from him that he shall indemnify the defendants in case any claims are made by any of the legal heirs of the original mortgagor. Since the amount having been paid, the Second Appeal is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

30.07.2024

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST

To

1. The II Additional City Civil Court, Chennai
2. The XIII Assistant City Civil Court, Chennai.



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V.LAKSHMINARAYANAN, J.

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