IN THE COURT OF THE PRINCIPAL DISTRICT JUDGE, TIRUPPUR.

PRESENT: Thiru.N.Gunasekaran, M.B.A., B.L.,
Principal District Judge, Tiruppur

Thursday, the 08th day of August, 2024

Thiruvalluvarandu 2055, Sri Kurothi year, 23rd day of Aadi month

I.A.No.03/2023 in
Original Suit No. 662/2022
(CNR.No.TNTI 18003648 – 2022)

M/s.Union Bank of India
(Erstwhile Corporation Bank)
Peruntholuvu Branch
Tiruppur
Represented by its Branch Manager
... Petitioner / Plaintiff

Vs.

R.V.Thangamuthu ... Respondent / Defendant

On 16.07.2024, this petition came up before me for the final hearing in the presence of Thiru.P.Bharath, B.A., B.L., Counsel appearing for the Petitioner / Plaintiff and the Respondent / Defendant called absent and remained exparte and upon hearing Petitioner side and on perusal of case records, this Court delivers the following:-

O R D E R

Final Decree application filed Under Order 34 Rule 5(3) of Civil Procedure Code by the petitioner / plaintiff viz; M/s.Union Bank of India seeking for passing of Final Decree on the basis of the Preliminary Decree in OS.No.662/2022; dated:25.07.2023 stating that the time period provided for payment of the Decree amount was expired and even thereafter, no payment has been made by the respondent / defendant. Hence, for passing of Final Decree, this application is filed.

2) The petition filed that the suit in OS.No.662/2022 seeking for passing of Preliminary Decree and the same was decreed on 25.07.2023 directing the respondent / defendant to pay into court on or 26th day of October, 2023 a sum of Rs.20,42,183/- (Rupees Twenty Lakhs Forty Two Thousand One Hundred Eighty Three) with subsequent interest on Rs.10,00,000/- at the rate of 6% interest per annum from the date of decree till the date of realization. In default, the petitioner is entitled to bring to sale of the mortgaged property and the plaintiff is entitled to lien over the defendant property if the sale amount of mortgaged property is insufficient to adjust the loan. In default the petitioner / plaintiff was granted liberty to apply for final decree for the sale of the mortgaged property. Within the stipulated time, the amount has not been paid by the respondent and no appeal has been preferred against the said order. Therefore, the Preliminary Decree passed by this court holds good.

3) The respondent / defendant had not appeared and called absent set exparte both in main suit and also in this petition.

4) The Point for consideration is:-

Whether the Petitioner / Plaintiff is entitled for Final Decree?

5) POINT:-

Both side heard. Records Perused. Upon perusal of case records, it is noticed that the Petitioner and respondent are the plaintiff and defendant, respectively in the suit. Petitioner filed the above suit for recovery of money. This Court had passed a Preliminary decree on 25.07.2023 in favour of the Petitioner/Plaintiff. Within the stipulated time, either the decree amount is paid or the appeal is preferred and hence, the present petition under order was brought up by petitioner/plaintiff. The Respondent / defendant called absent and set exparte in the main suit as well as in the petition. Thereby, this court finds that the plaintiff is entitled for Final Decree to bring the property for sale under auction and in the event if the amount is not sufficient to satisfy the decree amount, the plaintiff is entitled for personal decree to realize the amount due from the defendant. Accordingly, Final Decree is passed.

In the result, the petition is allowed by passing of Final Decree on the basis of the Preliminary Decree passed in OS.No.662/2022; dated:25.07.2023.

Dictated to the Steno-typist, typed by her as directly on Computer, corrected and pronounced by me in the open Court dated this the 08th day of August, 2024.

Sd./-N.Gunasekaran
Principal District Judge,
Tiruppur.

Draft / Fair Order
I.A.No.03/2023 in
OS.No.662/2022
Dt:08.08.2024
PDJ Court, Tiruppur.

Dated: 08.08.2024 **Principal District Court, Tiruppur.**