

**Application (IP) No.219 of 2014  
in  
I.P.No.79 of 1972**

**R.SUBBIAH, J**

The present application has been filed by the applicants seeking a direction to the respondent to measure the plot of land conveyed to them under sale deed dated 23.9.2013 pertaining to the premises bearing Door No.30A, Navalur Street, Rani Anna Nagar, Arumbakkam, Chennai-106.

2. The short facts which are necessary to decide the issue, are as follows:-

Pursuant to the order passed in O.S.A.No.29 of 1992, the applicants' mother late B.Rajeswari filed an application in A.No.461 of 2004 before this Court against the Official Assignee for execution of the sale deed in respect of the land to an extent of 375 sq.ft. situated at No.30-A, Navalur Street, Rani Anna Nagar, Arumbakkam, Chennai-106 and the same was dismissed by this Court, by an order dated 28.6.2005. As against the said dismissal, late B.Rajeswari preferred O.S.A.No.293 of 2005 before the Division Bench of this Court and the said OSA was also dismissed by the Division Bench by judgment dated

30.7.2008. In the said OSA, the contention of late B.Rajeswari as to her possession over the property, was vehemently opposed by the then Official Assignee. As against the order of dismissal in the said OSA, late B.Rajeswari preferred an appeal before the Hon'ble Supreme Court in Civil Appeal No.6263 of 2013 and the same was allowed. In compliance of the order of the Hon'ble Supreme Court, a sale deed was executed by the Official Assignee in favour of the applicants, who are the legal heirs of late B.Rajeswari. The applicants had also taken possession of the property to an extent of 375 sq.ft. situated at No.30-A, Navalur Street, Rani Anna Nagar, Arumbakkam, Chennai-600106.

3. Now the legal heirs of late B.Rajeswari viz., the applicants herein have filed the present application contending that the land conveyed to them does not have the same measurement as stated in the sale deed dated 23.9.2013. Hence, the second applicant herein gave a representation dated 21.10.2013 to the respondent to measure the plot of land conveyed to them under sale deed dated 23.9.2013. Since there was no response from the respondent, the present application has been filed by the applicants to direct the respondent to measure the plot of land conveyed to them under sale deed dated

23.9.2013 pertaining to the premises bearing Door No.30A, Navalar Street, Rani Anna Nagar, Arumbakkam, Chennai-600 106.

4. It is the submission of the learned counsel appearing for the applicants that though in the sale deed the measurement of the property conveyed to the applicants has been shown as 375 sq.ft., the property does not have the said measurement. Therefore, a direction could be given to the Official Assignee to measure the property conveyed to the applicants.

5. Per contra, the Official Assignee has submitted that since the property was already conveyed to the applicants by executing a sale deed dated 23.9.2013, the applicants have no remedy before the insolvency court. The only remedy available to them is to approach the appropriate civil Court, if there is any subsequent encroachment. The applicants by circumventing the civil court jurisdiction, has filed the present application.

6. I have considered the submissions made on either side. In my considered opinion, after execution of the sale deed, the office of the Official Assignee has no role in measuring the property. In fact, as

contended by the Official Assignee, if there is any subsequent encroachment, the applicants have to work out their remedy only in approaching the civil Court and this Court cannot give any direction to the Official Assignee to measure the property, especially when already the sale deed was executed and possession was handed over to the applicants / third parties. Therefore, I am of the opinion, this Court cannot entertain the prayer made in this application and the application is liable to be dismissed.

7. Accordingly, the application is dismissed.

**02.02.2015**

Index:Yes/No  
Internet:Yes/No  
sbi

**R.SUBBIAH, J**

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**Pre-delivery order  
A.(IP) No.219 of 2014  
in  
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**DATED: 02.02.2015**