

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. No.209 of 2016

and C.M.P.No.16607 of 2016

1.S.Babu (HUF)

Rep. By Kartha, S.Babu

2.P.Rajalakshmi

... Appellants

-vs-

1.M/s.Fair Deal Construction,

Rep. By its Proprietor, N.Ravindran.

Dr. Mrs Sheela Rajarathinam (deceased)

2.M/s.Bay City Developers (P) Ltd.,

Rep. By its Managing Director,

V.Vishnu Reddy.

3.Ravi Rajarathinam

4.Ashok Rajarathinam

5.Meera Sukesh Menon

6.Sanjay Rajarathinam

.. Respondents

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order and decretal order dated 27.06.2016 passed in Application No.1700 of 2014 in C.S.No.660 of 2004 Application praying that this Hon'ble Court be pleased to amend the plaint as to include the prayer in the above suit as (ii)(a) "to declare the sole deeds dt.08.07.2004 in Document Nos.1970 and 1971 of 2004; registered in the office of the sub Registrar Ashok Nagar, Executed the Sledged in favour of Defendants 3 & 4 as Null and void: on the file of original side of this Court.

For Appellants

:

Mr.R.Thiagarajan

For Respondents

:

Mr.K.Manimaran for R-1

:

Mr.K.F.Manavalan for R-2

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

We have perused the suit records and there is no doubt that the application for amendment was originally filed on 18.10.2004. The question of giving a copy to the appellants would not arise at that stage, since the appellants were not even parties in the suit proceedings.

2.Learned counsel for the appellants states that the concerns of the appellants can be addressed by permitting an additional written statement to be filed and at the stage of framing of issues, they will pray for the appropriate issues to be framed.

3.Learned counsel for the original plaintiff / first respondent states that the amendment could not be carried out as the Court fee paragraph has also to be amended, for which Application No.3322 of 2016 has been filed.

4.Learned counsel for the appellants states that he has no objection if that application is allowed and if requisite Court fee is paid by the plaintiff. In view of the aforesaid, Application No.3322 of 2016 may be treated as allowed and necessary amendment be carried out subject to deposit of balance Court fees by the plaintiff within four (4) weeks.

5.The appellants and other defendants may file their additional written statement within two (2) weeks thereafter.

6.The parties will file their documents in the meantime.

7.The suit be listed before the learned Single Judge for framing of additional issue, if any, on 08.12.2016, whereafter the suit will be set down for exhibiting documents and trial.

8.The learned Master may endeavour to expedite the trial in the suit as the suit is quite old of the year 2004.

9.Original Side Appeal stands disposed of in the aforesaid terms, leaving the parties to bear their own costs. Consequently, C.M.P.No.16607 of 2016 stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra

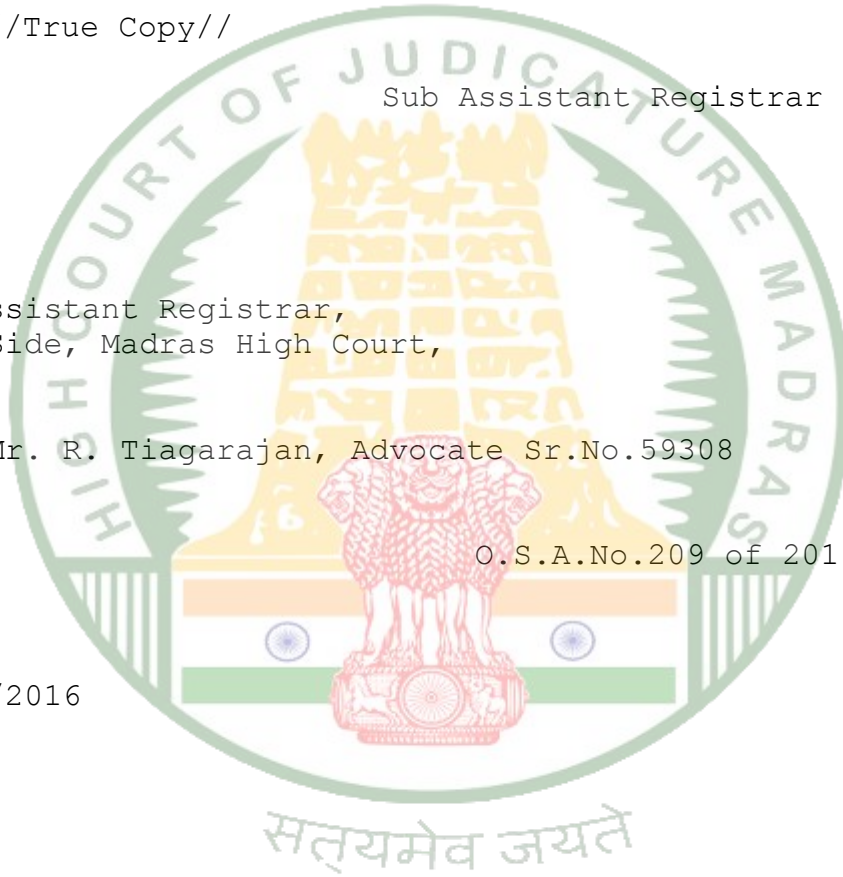
To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+1 CC to Mr. R. Tiagarajan, Advocate Sr.No.59308

O.S.A.No.209 of 2016

MSM (CO)
MD : 1/11/2016



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