

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER
And
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A.No.142 of 2014
And
M.P.Nos.1 and 2 of 2014

1.Ravi Krishna
2.Rajeev Krishna
Rep. by Power Agent, Rohit Krishna
3.Rohit Krishna
4.Smt.Pramila Rani .. Appellants/Plaintiffs

Vs.

1.Arun Krishna Agarwal
2.Dhruv Krishna Agarwal
3.Arvind Krishna Agarwal
4.Mrs.Veena Agarwal Respondents/Defendants 1 to 3 and 5

Prayer:

Appeal filed under Order XXXVI Rule II of OS Rules read with Clause 15 of Letters Patent praying to set aside the order and decreetal order dated 28.03.2014 in Application No.5279 of 2005 in C.S.No.1003 of 2005 and the imposition of cost of Rs.40,000/- ordered therein and allow the Original Side Appeal.

Prayer of Appln.5279 of 2005

To stay all further proceedings in EP.No.1670 of 1992, pending on the file of the IX City Civil Judge at Chennai.

a) directing the defendants to execute the sale of the G Schedule property in favour of the plaintiffs for the relief of specific performance, under the terms of Clause 12(f) of the Family Arrangement dated 18.09.2002 after receiving the sale consideration of Rs.30,00,000/- and on the failure of the defendants to do so. Order execution of the sale deed of the G Schedule property in favour of the Plaintiffs.

b) directing the defendants to pay to the plaintiffs a sum of

Rs.2,00,000/- for the relief of specific performance of Clause 12 (c) of the Famil Arrangement dated 18.09.2002 in respect of the D Schedule property.

c) for a mandatory injunction directing the defendants to act as per the Family Arrangement dated 18.09.2002 in respect of Clauses 12(d) of the A Schedule property and jointly sell the same ans appropriate the proceeds as per the terms of the Family Arrangement.

d) for a mandatory injunction directing the defendants to act as per the Family Arrangement dated 18.09.2002 in respect of Clauses 12(e) of the "E & F" Schedule property and jointly sell the same ans appropriate the proceeds as per the terms of the Family Arrangement.

e) for a mandatory injunction directing the defendants to act as per the Family Arrangement dated 18.09.2002 in respect of Clauses 12(a) & 12(b) of the "B & C" Schedule property and jointly sell the same ans appropriate the proceeds as per the terms of the Family Arrangement.

f) for a mandatory injunction directing the defendants to withdraw the E.P.No.1670 of 1992 pending on the file of the Hon'ble IX Assistant City Civil Court at Chennai in terms of clause 12 of the Family Arrangement dated 18.09.2005 and on the failure of the defendants to withdraw the E.P.No.1670 of 1992, direct the dismissal of the E.P.No.1670 of 1992

g) for a mandatory injunction directing the defendants to act as per Clause 7 of Family Arrangement dated 18.09.2002 and release the properties of Late Bhagwandas Agarwal in favour of the plaintiffs.

h) direction the defendants to pay costs of the suit ot the plaintiffs and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellants : Mr.Rohit Krishna
for Mr.L.Palanimuthu

For Respondents : Mr.B.Suresh

J U D G M E N T

(Judgment of the Court was delivered by RAJIV SHAKDHER, J.)

1. This is an appeal preferred against the judgment and order dated 28.03.2014, passed by the learned Single Judge in Application No.5279 of 2005 in C.S.No.1003 of 2005.

2. The appellants before this Court are plaintiffs in the suit numbered as C.S.No.1003 of 2005.

2.1. To be noted, on 06.06.2014, this Court had granted an interim stay of all further proceedings in E.P.No.1670 of 1992 pending before the IX Assistant City Civil Court, Chennai. The ad interim stay was granted for a period of eight weeks. Thereafter, the stay has continued to operate.

3. We are informed by the learned counsels for the parties that the suit i.e., C.S.No.1003 of 2005 has reached the stage of final arguments.

3.1. Furthermore, the learned counsel for the respondents/ defendants says that they would not precipitate the hearing in E.P.No.1670 of 1992, pending the decision in the aforementioned suit, which, as indicated above, has reached the final hearing stage.

4. The learned counsel for the appellants/ plaintiffs, says that in view of the said statement made by the learned counsel for the respondents/ defendants, the appeal could be disposed of, based on the statement made on behalf of the respondents/ defendants.

5. Accordingly, the appeal is disposed of with a direction, that pending the decision in C.S.No.1003 of 2005, the respondents/ defendants shall not precipitate the proceedings in E.P.No.1670 of 1992.

5.1. No further orders are called for.

5.2. We would only request the learned Single Judge, if time permits, to dispose of the suit, at the earliest.

6. The appeal is disposed of with the aforementioned directions. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions shall stand closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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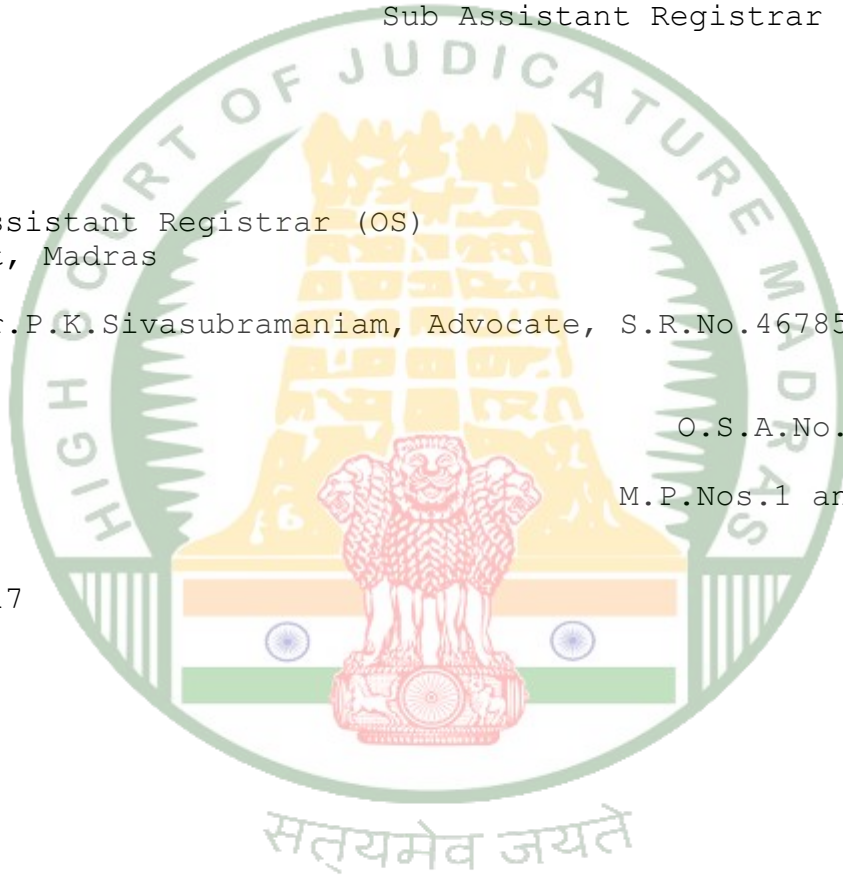
To

The Sub Assistant Registrar (OS)
High Court, Madras

+2cc to Mr.P.K.Sivasubramaniam, Advocate, S.R.No.46785

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And
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AK(CO)
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