

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

And

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

O.S.A.Nos.240 of 2014

K.R.Rajeesh Kumar

... Appellant

Vs.

1.Mrs.K.Nalini Raghavan

2.K.R.Reshma Sawini

3.K.R.Ranjiv Ragav

.... Respondents

Appeal filed under Order XXXVI Rule 2 of the Original Side Rules, read with Clause XV of the Letters Patent Act against the judgment and decree dated 25.06.2014 made in C.S.Nos.469 of 2008 on the file of this Court.

C.S.Nos.469 of 2008 : Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree in favour of the plaintiff as follows;

a)to pass a preliminary decree declaring that the plaintiff is entitled to 1/4th undivided share in the plaint schedule property and to effect a partition and separate possession of the plaintiff's share by metes and bounds;

(*) a(1) To pass a preliminary decree declaring that the plaintiff is entitled to 1/4th undivided share in the plaint schedule II property and to effect a partition and separate possession of the plaintiff's share by metes and bounds

b)To appoint an Advocate Commissioner to effect division of plaint schedule property and allot a separate possession in respective shares of the plaintiff and the defendants;

(*) 1(b) To appoint an Advocate Commissioner to effect division of plaint schedule-II property and allot a separate possession in respective shares of the plaintiff and the defendants

c)To grant a permanent injunction restraining the 1st and 2nd defendants, their men, servants, agents, representatives from alienating the plaint schedule property, in any manner, whatsoever including the share of the plaintiff and the defendants in the plaint schedule property.

For Appellant : Mr.B.Ullasavelan
For Respondent Nos.1 and 2 : Mr.G.RM.Palaniappan
For Respondent No.3 : Mr.Viswanathan for
Mrs.Narmada Sampath

J U D G M E N T

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

1. After some arguments, learned counsel for the parties, upon taking requisite instructions from their respective clients, who are present in Court, have agreed to settle the disputes pending not only in this Court, but before other forums as well.

2. The terms of settlement, as agreed to between the parties, before us are as follows:

i) The right, title and interest in the house located at Old No.28, New No.25, South Beach Avenue, II Street, M.R.C.Nagar, Chennai - 600 028, more fully described in Schedule I to the Plaint (hereafter referred to as 'the house property'), which vests in Mrs.K.R.Reshma Sawini and Mrs.K.Nalini Raghavan will continue to vest in them free from all encumbrances.

ii) The appellant and respondent No.3 will neither claim nor raise any dispute, with regard to the house property, which falls to the joint ownership of Mrs.K.R.Reshma Sawini and Mrs.K.Nalini Raghavan.

iii) The right, title and interest in the factory, located at G.3, 11th Street, Sector - I, Ambattur Industrial Estate, Chennai - 600 058, more fully described in Schedule II to the Plaint (hereafter referred to as 'factory'), will vest absolutely in the appellant and respondent No.3, i.e., Mr.K.R.Rajeesh Kumar and Mr.Ranjiv Ragav.

iv) The appellant and respondent No.3, (i.e., Mr.K.R.Rajeesh Kumar and Mr.Ranjiv Ragav), shall pay a sum of Rs.75,00,000/- (Rupees seventy five lakhs only), jointly and severally, to Mrs.K.R.Reshma Sawini and Mrs.K.Nalini Raghavan, in the following manner:

(a) Rs.10,00,000/- (Rupees Ten lakhs only), as down payment, vide cheque, bearing No.481386 and 468343, of even date, i.e., 04.07.2017, drawn on Axis Bank, Chennai, in the sum of Rs.5,00,000/- each, favouring Mrs.K.Nalini Raghavan, amounting in all to Rs.10,00,000/-.

(c) the balance sum of Rs.65,00,000/- (Rupees sixty five lakhs only) will be paid on or before 06.01.2018.

v) In order to secure the balance payment, the appellant Nos.1 and 2 have handed over two (2) post-dated Cheques bearing No.468344 and 481387, of even date, i.e., 05.01.2018, drawn on AXIS Bank, Chennai, favouring of Mrs.K.Nalini Raghavan, each having a value of Rs.32,50,000/-, amounting in all to Rs.65,00,000/-. In case, Mrs.Nalini Raghavan were to pre-

decease, the balance amount will be paid to Mrs.K.R.Reshma Sawini. Likewise, if, Mrs.K.R.Reshma were pre-decease Mrs.K.Nalini Raghavan, the balance consideration will be paid to Mrs.K.Nalini Raghavan.

v) a) Furthermore, till the entire amount is paid, both Mrs.Nalini Raghavan and Mrs.Reshma Sawini will have a charge on the factory. The charge shall be subordinate to any other charge, which is in existence at this point in time. Due intimation will be given in this behalf to the prior charge holders.

vi) In order to assist the appellant and respondent No.3 in raising finance, to pay up the balance sum of Rs.65,00,000/-, as provided for in paragraph 2(v) above, both Mrs.Nalini Raghavan and Mrs.Reshma Sawini will execute and register a release deed in their favour with respect to the factory.

vi)(a) The needful will be done within a period of ten (10) days from today, upon requisite documents being prepared and presented in that behalf by Mr.K.R.Rajeesh Kumar and Mr.K.R.Ranjiv Ragav.

vii) Mrs.Nalini Raghavan and Mrs.K.R.Reshma Sawini, shall immediately withdraw the Company Petition, filed in the Company Law Board, which, presently, stands transferred to the National Company Law Tribunal and is numbered as: T.C.P.No.32 of 2016.

viii) Mr.K.R.Rajeesh Kumar (including his wife i.e., Mrs.Simi) and Mr.K.R.Ranjiv Ragav will handover vacant and peaceful possession of the house property on or before 05.09.2017 to Mrs.Nalini Raghavan and Mrs.K.R.Reshma Sawini. Mr.K.R.Rajeesh Kumar affirms that he has the authority to act and arrive at this settlement on behalf of his wife i.e., Mrs.Simi. Furthermore, Mr.K.R.Rajeesh Kumar will assist having the electricity connection qua the subject property being transferred in the name of Mrs.K.R.Reshma Sawini.

ix) Mr.K.R.Rajeesh Kumar and Mr.K.R.Ranjiv Ragav will defend O.S.Nos.219 and 220 of 2010, qua which adjudication is pending and stands transferred to this Court to be heard along with C.S.No.1079 of 2009. In case, a decree is passed against Mrs.Nalini Raghavan, the sole defendant in O.S.Nos.219 and 220 of 2010, the liability, if any, which may arise, whether pecuniary or non-pecuniary will be discharged jointly and severally by Mr.K.R.Rajeesh Kumar and Mr.K.R.Ranjiv Ragav.

x) Mrs.Nalini Raghavan and Mrs.K.R.Reshma Sawini will render every assistance in finalising the balance sheets and accounts and in filing returns, other forms and documents, pertaining to Varnam Printing Inks Private Limited, with the Statutory Authorities and Banks, with a clear understanding that any liability, if any, will not accrue to either of them, i.e., Mrs.Nalini Raghavan or Mrs.K.R.Reshma Sawini.

xi) Mrs.Nalini Raghavan and Mrs.K.R.Reshma Sawini will cooperate in de-freezing the bank accounts maintained by the following entities:

S.No.	Name of the Company	Name of the Bank	Current Account No.	Amount Rs.
1	Printrite	Bank of India,	822120100004813	31657.36
	https://hcservices.ecourts.gov.in/hcservices/	Ambattur Branch, Chennai		

S.No.	Name of the Company	Name of the Bank	Current Account No.	Amount Rs.
2	Three Star Cutting Works	Bank of India, Ambattur Branch, Chennai	822120110000092	9645.31

xi)a) The monies and assets, if any, will be distributed equally between the contesting parties, i.e., Mr.K.R.Rajeesh Kumar, Mr.K.R.Ranjiv Ragav, Mrs.Nalini Raghavan and Mrs.K.R.Reshma Sawini.

xii) Mrs.Nalini Raghavan will withdraw C.S.No.1079 of 2009, instituted in this Court, upon receipt of the entire amount of Rs.75,00,000/-, in paragraph 2(iv) above.

xiii) In case, Mr.K.R.Rajeesh Kumar and Mr.K.R.Ranjiv Ragav breach the terms of settlement recorded herein above, Mrs.K.R.Reshma Sawini will have the liberty to execute the judgment and decree dated 25.06.2014, passed in C.S.No.847 of 2009 qua which no cavil or objection will be raised by Mr.K.R.Rajeesh Kumar and Mr.K.R.Ranjiv Ragav.

3. The parties will abide by the terms of settlement indicated herein above.

4. The parties and their respective counsels have appended their signatures in affirmation of the terms of settlement recorded herein above.

5. In addition, affidavits will be filed by the parties indicating therein that they will scrupulously adhere to the terms of settlement. In addition thereto, Mrs.Simi, wife of Mr.K.R.Rajeesh Kumar will also file an affidavit affirming the settlement. The said affidavits will be filed within a period of one (1) week from today.

6. Accordingly, the captioned appeal is disposed of in terms of the settlement arrived at between the parties. However, there will be no order as to costs. M.P.No.1 of 2014 stands closed.

Sd/-
1. K.R.Rajeesh Kumar

Sd/-
3. Mrs.K.Nalini Raghavan

Sd/-
2. K.R.Ranjiv Ragav

Sd/-
4. K.R.Reshma Sawini

Sd/-
(B.Ullasavelan)
(Counsel for appellant
Respondent No.3)

Sd/-
(GR.M.Palaniappan)
(Counsel for respondent
Nos.1 and 2)

Sd/-
Assistant Registrar(CO)

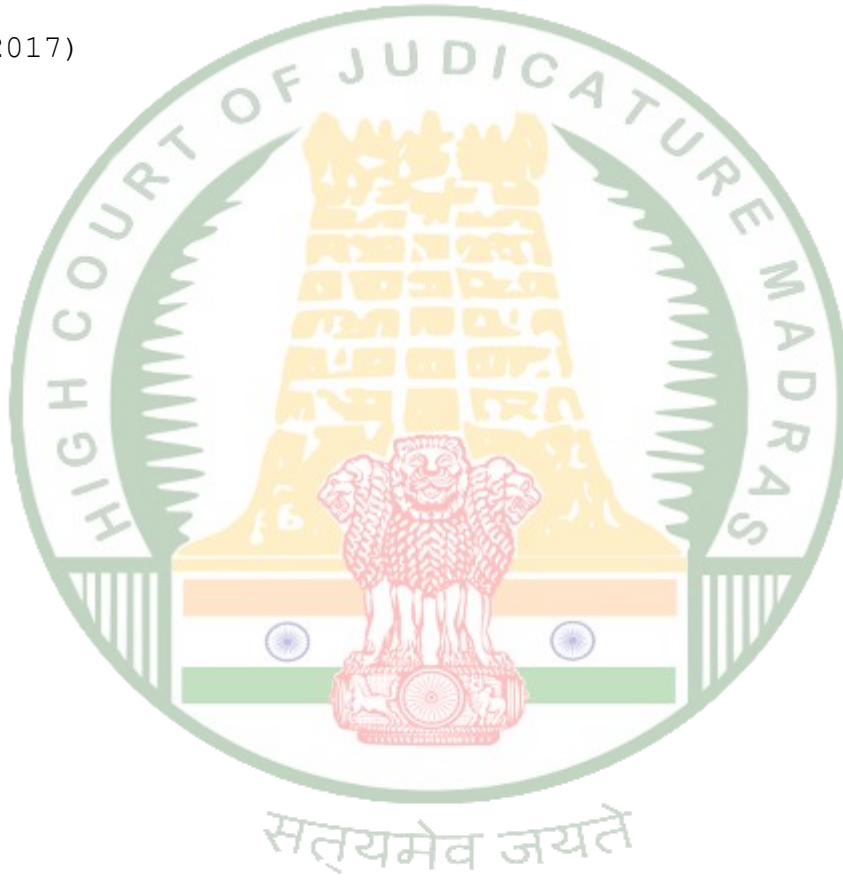
To

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

+1cc to Mr.G.RM.Palaniappan, Advocate, S.R.No.46501

O.S.A.No.240 of 2014

PA(CO)
CA(26/07/2017)



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