

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/01/2017

CORAM

THE HONOURABLE MR.JUSTICE **K.KALYANASUNDARAM**

C.S.No.589 of 2014

1.M.Sukumar Reddy

2.T.Vinayak Ravi

3.Sri Rama Estates (a Partnership firm),
Having registered office at
No.G-8, Amruth Ville, Somajiguda,
Raj Bhavan Road, Hyderabad-500 082.
(The Partnership firm Registered on 05.09.1995
with Registration No.08067 of 1995),
Rep. by Sri.M.Sukumar Reddy,
No.G-8, Amruth Ville, Somajiguda,
Raj Bhavan Road, Hyderabad-500 082.... Plaintiffs

Vs

Mr.Sriram ... Defendant

The Civil Suit is filed under Order VII Rule 1 of CPC read with Order IV Rule 1 of H.C.O.S. Rules, praying for (a) judgment and decree directing the Defendant to execute the sale deed in respect of the schedule mentioned property in favour of the first plaintiff or his nominee as per clause 5 of sale agreement dated 25.05.1996 before the concerned Sub Registrar Office and hand over physical possession of the schedule mentioned property after completion of all registration formalities. In case, the Defendant fails to execute the sale deed, this Court may

deputy any officer of this Court to execute the sale deed in respect of the schedule mentioned property in favour of the first plaintiff or his nominee as per clause 5 of sale agreement dated 25.05.1996 and complete all registration formalities and hand over physical possession of the property.

For Plaintiff : Mr.P.Subba Reddy

For Defendants : Set Ex-parte

J U D G M E N T

The facts necessary for disposal of the case are as follows:-

The plaintiff instituted the suit for specific performance of the sale agreement dated 24.09.1996 contending that the property in dispute was originally owned by one G.Ranganayaki Ammal and by virtue of a registered sale deed dated 25.03.1978, registered as document No.28 of 1978 in the office of District Registrar, Thanjavur, the executor's daughter C.Kamala became the absolute owner of the property, after executor passed away on 23.01.1986. The plaintiff would further state that the said Kamala had entered into the sale agreement agreeing to sell the property for the total sale consideration of

Rs.29,50,000/- and on the date of agreement, Rs.9,50,000/- was paid towards advance. After issuance of no objection certificate by the Income Tax Department, dated 12.08.1996, the plaintiff had paid the entire balance sale consideration to Mrs.C.Kamala and also obtained a General Power of Attorney, dated 30.09.1996. Since M/s.Bharat Petroleum Corporation was continuing with the possession of the property as a tenant, a proceedings was initiated against them in W.P.No.28046 of 2012. So, the sale deed was not executed immediately in favour of the plaintiff. While so, the said Kamalam passed away on 28.03.2014. The respondent is the only surviving legal-heir as adopted son of C.Kamala. The plaintiff requested the defendant to execute the sale deed and since, it was not accepted, the present suit has been filed.

2. The learned counsel for the plaintiffs would submit that the General Manager cum authorized representative of the plaintiff, viz., one Mr.K.Lakshminarayana Reddy was examined as P.W.1 and marked the following documents as Exs.P1 to P20 as documentary evidence in order to prove the suit claim:-

1) Ex.P1 is the photocopy of the agreement for sale, dated 25.05.1996 with Ms.C.Kamala

2) Ex.P2 is the photocopy of the Issue of the No Objection Certificate, dated 12.08.1996 by Income Tax Department i.e, appropriate authority to issue in favour of vendor as well as purchaser

3) Ex.P3 is the photocopy of Issue of General Power of Attorney, dated 30.09.1996 in favour of the second plaintiff by Mrs.C.Kamala.

4) Ex.P4 is the photocopy of letter dated 25.10.1996 from Ms.C.Kamala writing to Hindustan Petroleum Corporation Ltd., to hand over property to Mr.M.Sukumar Reddy.

5) Ex.P5 is the photocopy of letter dated 17.04.2001 written by Hindustan Petroleum Corporation Ltd., to Sri Rama Estate seeking sale deed.

6) Ex.P6 is the photocopy of letter dated 24.04.2001 from Sri Rama Estate to Hindustan Petroleum Corporation Ltd.

7) Ex.P7 is the photocopy of letter dated 30.04.2001 from Ms.C.Kamala to Revenue Photor, Chennai Corporation

8) Ex.P8 is the photocopy of letter dated 04.05.2001 from the Hindustan Petroleum Corporation Ltd., to Sri Rama Estate.

Ex.P9 is the photocopy of letter dated 11.05.2011 from Sri Rama Estate to Chief Regional Manager, Retail, Hindustan Petroleum Corporation Ltd.,

Ex.P10 is the photocopy of letter dated 08.07.2001 from Ms.C.Kamala to Sukumar Reddy

Ex.P11 is the photocopy of letter dated 17.07.2001 from the Revenue photor to Sukumar Reddy

Ex.P12 is the photocopy of letter dated 06.03.2002 from the Hindustan Petroleum Corporation Ltd. to Sri Rama Estate.

Ex.P13 is the photocopy of letter dated 10.10.2002 from Sukumar Reddy to Hon'ble Minister for Petroleum, Government of India.

Ex.P14 is the photocopy of letter dated 03.12.2002 from Sukumar Reddy to Selvkumar, Regional Manager, Retail, Hindustan Petroleum Corporation Ltd.,

Ex.P15 is the photocopy of reply letter dated 21.11.2002, Ministry of Petroleum, Government of India.

Ex.P16 is the photocopy of Description of receipts, dated 28.04.2011.

Ex.P17 is the photocopy of legal notice dated 21.05.2012 issued by Sukumar Reddy to the Senior Manager, (Retail), Hindustan Petroleum Corporation Ltd.,

Ex.P18 is the photocopy of reply letter dated 03.09.2012 by the respondent's counsel.

Ex.P19 is the photocopy of legal notice dated

28.03.2014 by plaintiffs' counsel with returned cover.

Ex.P20 is the Memo, dated 20.06.2016.

3. The learned counsel for the plaintiffs further submitted that the plaintiffs have proved their case and the Suit will have to be decreed.

4. The defendant was set-exparte on 06.04.2016. The said position continued as of now. Taking into consideration, the pleadings, the evidence of P.W.1 and Exs.P1 to P20, this Court is of the view that the plaintiffs have proved their case and the Suit is liable to be decreed and accordingly, the Suit stands decreed. The defendant is directed to execute the sale deed in favour of the first plaintiff within a period of 30 days from the date of receipt of a copy of this order. If the defendant fails to execute the sale deed within the specified time, the Officer of the Court, shall execute sale deed in favour of the first plaintiff. No costs.

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sd/.M.K.K.S.J

30.01.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/21.04.2017

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.