

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 2ND DAY OF FEBRUARY 2017

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

A.No.555 of 2017
in
C.S.No.140 of 2014

1.Maher Dadha L.Milap
Son of Late Lmilapchand Dadha
For himself & on behalf of Maher Dadha H.U.F.
Dadha House, 136,
7th Main Road,
5th Block, Jayanagar,
Bangalore - 560 041

2.Apoorva Dadha
Son of Maher Dadha,
Dadha House, 136, 7th Main road,
5th Block, Jayanagar,
Bangalore - 560 041 ..Plaintiffs

vs

1.Mahendra Dadha
Son of Late L.Milapchand Dadha,
For & on behalf of Mahendra Dadha H.U.F.
No.27 B, 1st Cross Street,
R.A.Puram, Chennai- 600 028

2.Mahipal Dadha,
Son of Late L.Milapchand Dadha,
For & on behalf of Mahipal Dadha H.U.F.
No.15, Dr.Nair Road, Devi Arihant,
Flat No.41, 4th Floor,
T.Nagar, Chennai- 600 017

3.State Bank of India,
Represented by its Deputy General Manager,
Netaji Subhas Road Branch,
Kolkata - 700 001 ..Defendants

A.No.555 of 2017:

State Bank of India,
Rep. by its Deputy General Manager,
Netaji Subhas Road Branch,
Kolkata - 700 001 ...Applicant/3rd Defendant

VERSUS

1.Mr.Maher Dadha,
S/o.Late Mr.L.Milapchand Dadha,
For himself & on behalf of Maher Dadha H.U.F.
Dadha House, 136, 7th Main Road,
5th Block, Jayanagar,
Bangalore - 560 041

2.Mr.Apoorva Dadha,
S/o.Mr.Maher Dadhaa,
Dadha House, 136, 7th Main Road,
5th Block, Jayanagar,
Bangalore - 560 041 ...Respondents/Plaintiffs

3.Mr.Mahendra Dadha,
S/o.Late Mr.L.Milapchand Dadha,
For & on behalf of Mahendra Dadha H.U.F.
No.27/B, 1st Cross Street,
R.A.Puram, Chennai- 600 028

4.Mr.Mahipal Dadha,
S/o.Late Mr.L.Milapchand Dadha,
For & on behalf of Mahipal Dadha H.U.F.,
No.15, Dr.Nair Road, Devi Arihant,
Flat No.41, 4th Floor,
T.Nagar, Chennai - 600 017

..Respondents/Defendants 1 and 2

Application praying that this Hon'ble Court be
pleased to condone the delay of 1045 days in filing the
Written Statement of the third defendant in
C.S.No.140/2014.

This application coming on this day before this
Court for hearing the court made the following order:

This application is filed seeking to condone the

delay of 1045 days in filing the written statement by the 3rd defendant.

2.In the affidavit filed in support of the application, it has been averred that the applicant/D3, after filing of the suit, contacted the Guindy Branch of State Bank of India, since the plaintiff and the D1 & D2 could not be located by the applicant/D3; that after repeated enquiries, the applicant/D3 could collect the details from the Guindy Branch of SBI, which resulted in the delay.

3.Mr.Omprakash, learned counsel appearing for the applicant/D4 would submit that the plaintiffs have impleaded the Kolkatta office of the 3rd Defendant-SBI; subsequently it came to light that the suit properties were mortgaged with the Guindy Branch of SBI; that is why the written statement could not be filed in time.

4.Heard Mr.M.Arun Kumar learned counsel appearing for the 2nd defendant and Mr.Gautam S.Raman learned counsel appearing for the 1st defendant also and perused the materials on record.

5.It is seen that the plaintiffs have instituted the suit for specific performance alleging that the title deeds of the suit properties were pledged with the applicant-Bank. Though the suit was filed in the month of January,2014, showing the applicant as 3rd defendant, for

the period of more than three years the applicant did not file their written statement. In the affidavit also, the averments are very vague and it is not specifically stated about the enquiries made by the applicant with the Guindy Branch of SBI.

6. However considering the relief sought for in the suit and the length of delay, this Court is of the opinion that the applicant can be given an opportunity to defend the suit, by condoning the delay on terms. Accordingly, delay is condoned on payment of cost of Rs. one lakh to the School Management Committee (SMC), Government Girls Higher Secondary School, Acharapakkam PO, (Bank Account No.32755345428, IFSC Code No.SBIN0015305, State Bank of India, Acharapakkam-603 301), (Headmaster Cell Phone No.8012505385), within a period of three weeks from today.

For reporting compliance, post the matter on 24.02.2017.

Sd/M.K.K.S.J

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02.02.2017

//Certified to be a true copy//

Dated this the day of 2017

R.s/06.02.2017

COURT OFFICER

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