

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.S.No.521 of 2016
& O.A.No.634 & 635 of 2016

J.Vijayalakshmi

... Plaintiff

Vs

1. N.Indira
2. Member Secretary
Chennai Metropolitan Development Authority,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

... Defendants

Plaint filed under Order IV Rule 1 of High Court O.S. Rules r/w. Order VII R.1 of CPC r/w. Sec.15(a) of Specific Relief Act, 1963, praying for judgment and decree as follows:

- i. declaring that the cancellation of the Power of Attorney executed by the 1st defendant vide Document No.2779 of 2016 dated 24.06.2016 on the file of SRO, Anna Nagar as null and void, invalid and not binding upon the plaintiff;
- ii. directing the 1st defendant to execute the sale deed in favour of plaintiff in respect of the property more fully described in the 'B' schedule property;
- iii. to grant permanent injunction restraining the 1st defendant or his men, agents or servants from interfering with the peaceful possession of the plaintiff's property more fully described in the 'B' schedule property.

- iv. to grant permanent injunction restraining the 1st defendant or his men, agents or servants from altering, encumbering or alienating or dealing with, improving or constructing the property morefully described in the 'B' schedule property in any manner whatsoever;
- v. for the cost of the suit.

For Plaintiff	:	Mr.M.Rajasekar
For Defendants	:	M/s.Dakshayani Reddy (for D1) Mr.C.Johnson (for D2)

JUDGMENT

The learned counsel for the plaintiff as well as the learned counsel for the defendants, have submitted that the dispute between the parties has been amicably settled and a joint compromise memo dated 28.04.2017 signed by the parties as well as the counsel, is filed to that effect, which reads as follows:

(A) TERMS OF COMPROMISE

- a) This Memorandum of compromise replaces General Power of Attorney entered into between the Party of the First Part and the Party of the Second part dated 01.02.2016. In other words, the General Power of Attorney is unenforceable upon the execution of this Memorandum of Compromise.
- b) This Memorandum of Compromise is in full and final settlement of all claims between the parties with respect to the 'A' Schedule property.
- c) There are Writ Petitions in W.P.Nos.31752 of 2015 and W.P.No.3702 of

2016 and W.P.No.37950 of 2016 pending on the file of the High Court of Madras. Wherein the allotment of the Schedule 'A' Property in favour of the party of the first part is under challenge. If the proceedings conclude in favour of the party of the first part, the party of the first part shall execute a sale deed in favour of the party of the second part with respect to the 'B' Schedule property alone. The property more fully described in the 'C' Schedule shall be the absolute property of the party of the first part. The cost of registration of Schedule 'B' property shall be borne by the party of the second part.

The condition with respect to the execution of the sale deed stated in clause 'C' above shall be subject to the following conditions:

(i) The concurrence shall be obtained from the Chennai Metropolitan development Authority prior to the execution of the sale deed. The party of the first part shall apply for the same for part sale of Schedule "B" property within 15 days from the date of the proceedings referred in the above mentioned clause 'c'. The party of the second part shall be responsible for obtaining concurrence from the CMDA.

(ii) In the event the CMDA does not give the concurrence, the party of the first part shall refund the sum of Rs.65,00,000/- (Rupees sixty five lakhs only) to the party of the second part. Immediately after such repayment, the party of the second part shall surrender the possession of the 'B' Schedule property to the party of the first part. To remove all doubts, the repayment of Rs.65,00,000/- (Rupees sixty five lakhs only) and the handing over of possession shall be

simultaneous.

- d) If the proceedings in the W.P.No.31752 of 2015 and W.P.No.3702 of 2016 and W.P.No.37950 of 2016 pending on the file of the High Court of Madras culminate adversely against the party of the first part, the party of the first part shall refund the sum of Rs.65,00,000/- (Rupees sixty five laksh only) to the party of the second part in full and final settlement of all dues after the party of the first part receives full refund from CMDA within 15 days from the date of receipt of such refund from CMDA. The party of the second part shall immediately handover possession of the 'B' Schedule property to the party of the first part. To remove all doubts, the repayment of Rs.65,00,000/- (Rupees sixty five lakhs only) and the handing over the possession shall be simultaneous.

(B) OTHER GENERAL TERMS OF COMPROMISE

- i. The party of the first part has put the party of the second part in possession of the Schedule "B" property as per the description and the drawing which forms part and parcel of this Memorandum on the date of execution.
- ii. The party of the second part shall forthwith withdraw the Writ Petition in W.P.No.30719 of 2016, pending on the file of the High Court of Madras.
- iii. The party of the second part shall forthwith withdraw the impleading petition filed in W.P.No.3702 of 2016, pending on the file of the High Court of Madras.
- iv. Both the parties shall resolve the criminal complaint pending on the file

of the Inspector of Police, K-10 Police Station in FIR No.854/2016.

- v. Upon the execution of the sale deed, if either of the parties is desirous of selling their share of the property, the first right of purchase shall be offered to the other party. The sale consideration shall be fixed by the party who is desirous of selling their share.
- vi. The parties agree that there shall not be any barricade or any obstruction for the free and peaceful possession of their mutual shares. In other words, both the parties herewith agree that they shall not obstruct the free movement of goods and people over each other's shares.
- vii. Both the parties agree the maintenance charges shall be borne by each of them in their respective shares as per the respective extent of the property. In other words, as per the no. of sq.ft. in the possession of each of the parties.
- viii. Both the parties agree that any further expenditure towards the Schedule "A" property shall be borne by both the parties as per the extent in their respective occupation and enjoyment.
- ix. the party of the second part agrees to apply to the TANGEDCO and get a separate electricity connection at her responsibility after the sale deed is executed on Schedule "B" property.
- x. Both the parties agree till the registration of Schedule "B" property is completed and separate electricity connection is installed, the electricity charges consumed by the party of the second part shall be paid to the party of the first part.
- xi. Both the parties hereby agree that they shall strictly adhere to the rules and regulations of the CMDA and MMC without any deviation forever.

2. In view of the above, the civil suit is decreed in terms of the joint memo of compromise and the joint memo of compromise shall form part of the decree. No costs. Consequently, the connected applications are closed.

28.04.2017

Index:Yes/No
pvs / r n s

K.KALYANASUNDARAM, J.,

pvs / r n s

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

C.S.No.521 of 2016
& O.A.No.634 & 635 of 2016

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