

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2017

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

O.S.A. No.400 of 2012

M/s.Parthas,
Rep. By its Managing Partner,
S.Nagarajulu. ...Appellant

-vs-

1.R.Dhanalakshmi
2.R.Anantha Kumar
3.R.Veeresh Kumar

4.Standard Chartered Bank
Haddows Road, Chennai - 6.

5.Phoenix ARC Pvt. Ltd.,
Rep. By its Manager and POA,
Mr.K.Velmurugan.
(Impleaded as R-5 vide order dt.
01.02.2017 in CMP.1552/2017)

.. Respondents

Appeal filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the order dated 25.06.2012 passed in O.A.No.688 of 2006 in C.S.No.659 of 2006 on the file of original side of this Court.

O.A.No.688 of 2006.

Original Application praying that this Court be pleased to grant an order of interim injunction restraining the respondent, its men, servants, agents assigns, or any are claiming through of under them form in any manner alinating or enumering the schedule maintained propertier, pending disposed of this suit.

For Appellant : Mr.Madhan Babu

For Respondents : Mr.P.Arivudai Nambi
for RR 1 to 3

: Mr.V.Jayachandran for RR 4 and 5
for M/s.V.Jayachandran Asso.

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

The Assignee of the fourth respondent has been formally impleaded as the fifth respondent today.

2.In so far as the discharge of the mortgage created is concerned, the appellant/plaintiff is stated to have discharged the same vide Demand Draft dated 27.01.2017 for a sum of Rs.15,00,000/- (Rupees fifteen lakhs only) in favour of the fifth respondent.

3.In view of the aforesaid, orders are sought in the appeal in the following terms:

- a) Making absolute the order of interim injunction granted in O.A.No.688 of 2006 in C.S.No.659 of 2006;
- b) Recording the discharge of mortgage created in favour of the 4th respondent / 4th defendant bank in respect of Plaint Schedule item nos.3 and 4 by payment of Rs.15 lakhs by the appellant/plaintiff, and that the 4th respondent/4th defendant bank and/or its assignee shall not have any further claim over Plaint Schedule item nos.3 and 4;
- c) Directing the 4th respondent / 4th defendant bank and/or its assignee viz., 'Phoenix ARC' to deposit the entire title and other documents pertaining to Plaint Schedule item no.3 and 4 and the mortgage created in respect thereof with the Registrar General of this Hon'ble Court for safe custody and subject to the outcome of C.S.No.659 of 2006;
- d) Treating the said sum of Rs.15 Lakhs as part and parcel of the sale consideration payable by the

appellant/plaintiff under the agreement for sale dated 02.04.2005 and supplementary agreement dated 30.06.2005 and granting liberty to the appellant/plaintiff and respondents/defendants 1 to 3 to agitate their respective rights as mentioned in the impugned order dated 25.06.2012.

4.The appeal, by agreement, is disposed of in the aforesaid terms. No costs.

5.We are informed that the defendants have not even filed the written statement for ten years. List on 13.02.2017 before the learned Single Judge on the undefended Board.

sd/
Assistant Registrar(CO)

/true copy/

Sub Assistant Registrar

sra

To

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

+1cc to Mr.P.Arivudai Nambi, Advocate Sr.No.6170.
+1cc to Mr.Satish Parasaran, Advocate Sr.No.6654.

O.S.A.No.400 of 2012

NM(CO)
GN(10/02/2017)

सत्यमेव जयते

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