

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2017

Coram

The Hon'ble Mr.Justice S.Nagamuthu
and

The Hon'ble Mr.Justice N.Authinathan
Original Side Appeal No.376 of 2013

T.Ruby Christie ...Appellant/Applicant/Plaintiff
Vs.

1. P.R.Krishnan

2. C.Ganesh Balaji
rep. by his General Power Agent
Mr.G.Chandra Sekaran

3. Mrs.R.Vathsala

4. N.Ramdass

5. Mrs.R.Kanchana Ganga Bai

6. S.Ramakrishnan

7. S.Vanchinathan

8. S.P.Arumugam

9. S.Revathi

10. P.Radha

...Respondents/Respondents/
Defendants

Original Side Appeal filed under Order XXXVI Rule 9 of the
O.S. Rules read with Clause 15 of Letters Patent against the
order, dated 24.01.2013, made in Original Application No.3916 of
2012, in C.S.No.424 of 2012 on the file of this Court.

For Appellant : Mr.V.G.Sureshkumar
For Respondents: Mr.R.Vishnu for
Mr.K.Ramu

JUDGEMENT

(Judgement of the Court was delivered by S.Nagamuthu,J.
)

The appellant is the plaintiff in C.S.No.424 of 2012, before
the learned Single Judge of this Court.

2. The suit was filed for recovery of a sum due under a
simple promissory note executed by the first defendant. The
other defendants, viz., defendants 2 to 23 were all impleaded as
parties to the suit, on the allegation that, they had entered
into various sale agreements with the first defendant to
purchase the developed houses from the first defendant. It is
the allegation that the first defendant borrowed money under the
promissory note, in question, for the purpose of developing the

buildings. Therefore, according to the plaintiff, the defendants 2 to 23 are also necessary parties to the suit. On appearance, the defendants 2, 3, 4, 12, 13, 14, 15, 19, 20 and 23, who are respondents herein, filed an application in A.No.3916 of 2012, seeking rejection of the plaint, so far as they are concerned. That application was allowed by the learned Single Judge of this Court. Challenging the same, the present Appeal has been filed.

3. Heard the rival submissions made on either side and also perused the records carefully.

4 Admittedly, the suit is based on a simple promissory note. There was no charge created over the property, in question. It may be true that the first defendant borrowed money under the suit promissory note, for the purpose of developing the property. It may also be true that the other defendants 2 to 23 had entered into a sale agreement with the first defendant to purchase those developed houses, but, since in the original cause of action, the other defendants 2 to 23 have got nothing to do with, and there is no charge over the property, neither they are parties to any of the proceedings between the plaintiff and the first defendant, the learned Single Judge rightly rejected the plaint so far as the other defendants 2 to 23 are concerned. In the said order of the learned Single Judge, we do not find any infirmity, warranting interference of this Court.

5. In view of the above, this Original Side Application fails, and accordingly, the same is dismissed. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sd

To

1.The Sub Assistant Registrar
Original Side High Court Madras

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