

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2018

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No.393 of 2013

V.R.F.Paul Raj
S/o.Mr.V.M.Rajendran
No.9, 8th Trust Cross Street,
Raja Annamalaipuram,
Chennai - 600 028.

... Plaintiff

Versus

K.Lakshmana Swamy,

... Defendant

Plaint filed under Order IV Rule 1 of Original Side Rules read with
Order VII Rule 1 of Civil Procedure Code praying to pass a judgment and
decree:

a) to grant a judgement and decree of permanent injunction
restraining the defendant herein, his men, servants and agents from in any
manner alienating the plaint schedule property to any third parties and

b) for costs of the suit.

For Plaintiff : Mr.T.Velumani

For Defendant : Mr.K.P.Gopalakrishnan

JUDGMENT

At the time of the argument it is found that the suit is one for specific performance. Though there is no prayer for possession of the property, in view of the judgment of the Hon'ble Supreme Court in ***Excel Dealcomm Private Limited Vs. Asset Reconstruction Company (India) Limited and others*** reported in **(2015) 8 SCC 219**, the suit will be deemed to include a prayer for possession, thereby rendering it a suit on land. I have also, in the application in **A.No.6870 of 2017** by order dated **21.12.2017**, taken a similar view.

2. Hence, the plaint is directed to be returned to the plaintiff for presentation before appropriate Court. The plaintiff will have to pay the difference in Court fee after deducting the court fee paid to this Court. The plaint shall be re-presented within four weeks from the date of return.

12.01.2018

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Index : Yes/ No
Internet : Yes/ No
Speaking Order/ Non-speaking Order

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List of the witnesses examined on the side of the plaintiff:

PW1 - V.R.F.Paulraj

List of Exhibits marked on the side of the plaintiff:

Sl. No.	Exhibits	Description	Dated
1	Ex.P1	Original Agreement of Sale.	03/11/2010
2	Ex.P2	Office copy of Letter sent by plaintiff and defendant.	16/05/2013
3	Ex.P3	Layout Plans prepared by plaintiff.	14/01/2013
4	Ex.P4	(4 Nos.) Bills raised by contractors.	--
5	Ex.P5	Xerox copy of Letter issued by the defendant along with photocopies of two demand drafts for Rs.10,00,000/-.	19/06/2013
6	Ex.P6	Original reply notice issued by the plaintiff counsel along with return postal cover.	15/07/2013
7	Ex.P7	Police complaint.	05/08/2013
8	Ex.P8	Photocopy of Demand draft No.068044 for Rs.9,00,000/- and No.068045 for Rs.1,00,000/-.	07/06/2013
9	Ex.P9	Certified copy of Sale.	07.07.2011
10	Ex.P10	Certified copy of Sale.	07.07.2011
11	Ex.P11	Certified copy of Sale.	17.06.2011
12	Ex.P12	Xerox copy of Indian Bank, Adyar Branch SB Account pass book entry.	From 01.01.2010 to 21.11.2010
13	Ex.13	Downloaded copy of Guideline value from the Registration Department.	--

R.SUBRAMANIAN, J.

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List of the witnesses examined on the side of the Defendants:

DW1 - K.Lakshmana Swamy

List of Exhibits marked on the side of the Defendants:

<i>Sl. No.</i>	<i>Exhibits</i>	<i>Description</i>	<i>Dated</i>
1	Ex.D1	Affidavit of Service.	16/02/2017

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12.01.2018

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