

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

O.S.A.No.267 of 2018
and
C.M.P.No.12459 of 2018

1.Vikram Jesudasen
2.Ranjit Jesudasen ... Appellants/Defendants 1 & 3

Vs

1.Suresh Kumar
2.Rekha Jain
3.Chandan Kumar
4.Pramila Jain
5.Naresh Kumar
6.Varsha Jain
7.Ajit Jesudasen
8.Tara Lindsay
9.Maya Kumaraswami
10.Cecil Josph
11.Tamara Lindsay ... Respondents/Plaintiffs 1 to
6/Defendants 2,4, to 7

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent against the order dated 28.06.2018
made in C.S.No.375 of 2005.

Prayer in C.S.No.375 of 2005:

Civil Suit praying that this Hon'ble Court be pleased to
pass a Judgment and decree

a) granting specific performance in favour of the plaintiffs
for a consideration of Rs. 1.6 Crores and the additional sum of
Rs. 10 lakhs already paid, by ordering the defendants 1 to 5
execute the sole deed and do all such acts as are necessary to
transfer title of the schedule mentioned property in favour of
the plaintiffs and upon their failure to direct the register ,
High Court to execute the sale deed in favour of the plaintiffs.

b) Directing the defendants to pay to the plaintiffs the
costs of the suit.

For Appellants .. Mr.George Cheriyan

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

This appeal is directed against the order dated 28.06.2018 made in C.S.No.375 of 2005.

2.Respondents 1 to 6/plaintiffs filed the suit for specific performance. Pending the suit, the respondents wanted to mark e-mail correspondence between defendants 6 and 7. The learned single Judge was pleased to hold that the compliance of mandate of Section 65(b) of the Indian Evidence Act is not required for the reason that it is an inter se correspondence between the defendants. Thus the plaintiffs cannot be stated to be in control of the device through which they have emanated.

3.Learned counsel appearing for the appellants would contend that the learned single Judge did not go into the authenticity of the documents sought to be marked. We are afraid that such contention cannot be countenanced. The learned single Judge merely permitted the plaintiffs to mark the documents. Thus, it is well open to the appellants to raise their contentions at a later point of time. This also will include relevancy and proof.

4.With the aforesaid observation, the Original Side Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

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To

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

+1 CC to Mr. George Cheriyan, Advocate sr 49099.

O.S.A.No.267 of 2018

SP(11/08/2018)