



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 23rd DAY OF AUGUST 2018

THE HON'BLE MR. JUSTICE M.SUNDAR

C.S. No.388 of 2018

P.Rajaram,
S/o.M.A.Ponnusamy Reddiar,
No.10, Saradambal Street,
Gokulam Colony, T.Nagar,
Chennai-600 017.

... Plaintiff

-Versus-

1. Khimraj Sakariya,
S/o.Late Misrimal,
No.10/4, Barnaby Road,
Kilpauk, Chennai-600 010.
2. Nishank Sakariya,
S/o.Narendra Sakariya,
No.36, Thambusamy Street,
Kilpauk, Chennai-600 010.
3. M/s.Nakoda Traders,
rep. by its Partner, Ashok Kumar Jain,
New No.336, Old No.349, Second Floor,
Shop No.3, Mint Street,
Sowcarpet, Chennai-600 079.
4. Mahendar Bansali (HUF),
rep. by its Karta Mr.Mahendar Bansali,
E-504, 5th Floor, Roop Chambers,
No.43 & 44, Erulappan Street,
Sowcarpet, Chennai-600 079.
5. Shikal A.Jain,
D/o.Ashok Jain,
No.16/9, Ekambareswarar Agraharam,
Vittal Market, Chennai-600 003.
6. Bhagyawanthi Bai,
W/o.Shankarlal,
No.10/3, Barnaby Road,
Lane next to Aditya Hospital,
Kilpauk, Chennai-600 010.
7. M/s.Ravi Enterprises,
rep. by its Proprietor Jayantilal,



No.16/2, Narayana Mudali Lane,
Sowcarpet, Chennai-600 079.

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8. Mrs.Indira Jain,
W/o.Kishore Kumar,
No.12/16, Ekambareswarar Agraharam,
Park Town, Chennai-600 003.

9. M/s.Jineshwar Capitals,
rep. by its Partner Pramod Chordia,
No.808D, Poonamallee High Road,
Kilpauk, Chennai-600 010.

10. M/s.Balajee & Co.,
Auctioneer,
No.160, Thambu Chetty Street,
Chennai-600 001.

... Defendants

Civil Suit praying that this Hon'ble Court be
pleased to pass a judgment and decree against the
defendants:-

a) for redemption of the mortgage dated 01.06.2016
registered as document No.1324 of 2016 at the office of the
Sub Registrar, T.Nagar, Chennai in respect of the suit
schedule property on payment of a sum of Rs.5,22,33,787/-
(Rupees five crores twenty two lakhs thirty three thousand
seven hundred and eighty seven only);

b) for permanent injunction restraining the
defendants 1 to 10 or any other person or persons claiming
through them in any way proceeding against the suit
schedule property in any manner whatsoever;

c) for the costs of the suit.

This suit coming on this day before this court for
hearing in the presence of Ms.K.N.Shanthi, advocate for the
plaintiff herein and Mr.Ralph V.Manohar, advocate for the
defendants 1 to 5 and 8 to 10 herein and Mr.N.Moorthy,
advocate for the defendants 6 & 7 herein and upon reading
the plaint filed herein and the joint memo of compromise
signed by the plaintiff and the defendants 1 to 9 herein,
and their respective advocates and the said advocates for
the parties hereto praying this court to pass a decree in
terms of the joint memo of compromise more fully set out in



the schedule hereunder, it is in terms thereof ordered and decreed as follows:-

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That the plaintiff and 1st-9th defendants herein have agreed that as on 31.08.2018 the following amounts are due from the plaintiff to 1st - 9th defendants towards mortgage loan taken for the suit property:

S. No.	Name	Principal	Interest outstanding as on 31.08.2018
1	Khimraj Sakariya	Rs.12,500,000/-	Rs.42,50,000/-
2	Nishank Sakariya	Rs.12,500,000/-	Rs.42,50,000/-
3	M/s.Nakoda Traders	Rs.12,500,000/-	Rs.27,50,000/-
4	Mahendar Bhansali (HUF)	Rs.10,000,000/-	Rs.34,00,000/-
5	Shikal A Jain	Rs.5,000,000/-	Rs.17,00,000/-
6	Bhagyawanthi Bai	Rs.10,000,000/-	Rs.28,80,000/-
7	M/s.Ravi Enterprises	Rs.10,000,000/-	Rs.31,40,000/-
8	Indira Jain	Rs.7,500,000/-	Rs.17,00,000/-
9	M/s.Jineshwar Capital	Rs.10,000,000/-	Rs.31,40,000/-
	Total	Rs.90,000,000/-	Rs.2,72,10,000/-

2. That the plaintiff herein agrees that he shall repay the principal sum of Rs.9 crores and interest amount of Rs.2,72,10,000/- (Rupees two crores seventy two lakhs and ten thousand only) along with the interest at the rate of 2% per month from 01.09.2018 till actual realization of the above amounts to the defendants 1 to 9;

3. That the plaintiff herein had further taken an unsecured loan of Rs.1 crore on 03.03.2017 from the 9th defendant, and the outstanding interest on the said loan is Rs.17,90,000/- as on 31.08.2018 and the plaintiff herein shall repay the outstanding amounts of Rs.1 crore together with interest amount of Rs.17,90,000/- (Rupees seventeen lakhs and ninety thousand only) along with interest @2% per month from 01.09.2018 till actual realization;

4. That on plaintiff's request the 1st - 9th defendants herein have agreed to provide a NOC to M/s.Piramal Land & Housing Finance Ltd., for taking on rent the 3rd and 4th floor portions of the suit property



morefully setout in the schedule hereunder;

5. That the 1st - 9th defendants herein further agree to produce original documents at the time of registration of Lease Deed by the plaintiff in favour of M/s.Piramal Land & Housing Finance for 3rd and 4th floor portions of the suit property morefully setout in the schedule hereunder;

6. That the plaintiff and defendants herein agree that in case the plaintiff is unable to clear the outstanding dues as agreed in clause 1, 2 & 3 above, then the 1st - 9th defendants shall be at liberty to sell the said suit property by public auction on any date after 30.11.2018;

7. That the plaintiff herein further agrees that only in case of discharge of entire dues as agreed in clause 1, 2 & 3 above, the said suit property shall be discharged from mortgage and all original documents received from the plaintiff would be delivered back to the plaintiff or his nominees along with all other security documents received from the plaintiff and the defendants herein shall also ensure that appropriate receipts are registered in the SRO T.Nagar recording the discharge of the mortgage;

8. That the defendants herein have agreed to differ the auction till 30.11.2018 and have accordingly informed the public Auctioner to do so;

9. That the plaintiff herein further submits that the cheques issued by him for repayment of mortgage loans for suit property were not honoured by him and the defendants herein had instituted cases under sec 138 N.I.Act against the plaintiff and the plaintiff herein has entered appearance in those cases.

10. That the plaintiff and the defendants herein agrees that on payment of dues as agreed in clause 1, 2 & 3 above, the defendants shall withdraw the cases filed under sec 138 N.I. Act against the plaintiff.



11. That the plaintiff and defendants herein agree that this Memorandum of Compromise shall not act as a stay on proceedings of cases filed under sec. 138 N.I. Act against the plaintiff in the meanwhile, but however shall enable the parties to get the proceedings adjourned to enable the plaintiff to comply with this Memo of Compromise.

12. That the plaintiff herein to avoid further litigation/civil suits agrees to settle the mortgage loan over Injambakkam property, vide mortgage deed dated 02.05.2016, registered as document No.3208 of 2016 at SRO Neelangarai.

13. That the plaintiff herein agrees that he shall repay the principal amount of Rs.3 crores towards the above referred mortgage deed and interest amount of Rs.96,30,000/- (Rupees ninety six lakhs thirty thousand only) to the mortgagees i.e., the 1st, 2nd, 4th defendants and also to M/s.Narendar Kumar & Sons, M/s.Adeshwar Investments and M/s.Singhi Industrial Electrical on or before 28.02.2019, together with attendant interest @ 2% per month on the outstanding amount from 01.09.2018 till actual realization in the following manner:

S. No.	Name	Principal	Interest outstanding as on 31.08.2018
1	KhimrajSakariya	Rs.5,000,000/-	Rs.17,00,000/-
2	NishankSakariya	Rs.5,000,000/-	Rs.17,00,000/-
3	M/s.Nakoda Traders	Rs.5,000,000/-	Rs.17,00,000/-
4	Narendar Kumar (HUF)	Rs.5,000,000/-	Rs.13,90,000/-
5	Adeshwar	Rs.5,000,000/-	Rs.15,70,000/-
6	Singhi Industrial	Rs.5,000,000/-	Rs.15,70,000/-
	Total	Rs.30,000,000/-	Rs.96,30,000/-

14. That the plaintiff herein had further taken an unsecured loan of Rs.75,00,000/- (Rupees seventy five lakhs only) through the 9th defendant, and the outstanding interest on the said loan is Rs.16,75,000/- (Rupees sixteen lakhs seventy five thousand only) as on 31.08.2018.

15. That the plaintiff herein shall repay the



outstanding amounts of Rs.75,00,000/- (Rupees seventy five lakhs only) together with interest amount of Rs.16,75,000/- (Rupees sixteen lakhs seventy five thousand only) along with interest @ 2% per month from 01.09.2018 till actual realization;

16. That the plaintiff and 1st, 2nd, 4th defendants herein agrees that in case of default by the plaintiff herein in payment of dues as agreed in clause 13 the mortgagees (under mortgage deed dated 02.05.2016, Document No.3208 of 2016) shall be at liberty to enforce this compromise decree against the plaintiff either jointly or severally.

17. That the plaintiff and 9th defendant herein agrees that in case of default by the plaintiff in payment of dues as agreed in clause 14 on or before 28.02.2019, the 9th defendant, shall be at liberty to enforce this compromise decree against the plaintiff herein;

18. That the plaintiff herein further submits that the cheques issued by him for repayment of mortgage loans for Injambakkam property were not honoured by him and the 1st, 2nd, 4th defendants had instituted cases under sec 138 N.I. Act against the plaintiff and the plaintiff has entered appearance in those cases.

19. That the plaintiff and 1st, 2nd, 4th defendants herein agrees that on payment of dues as agreed in clause 13 above, the 1st, 2nd, 4th defendants shall withdraw the cases filed under sec 138 N.I.Act against the plaintiff;

20. That the plaintiff and 1st, 2nd, 4th defendants herein agree that this memorandum of compromise shall not act as a stay on proceedings of cases filed under sec 138 N.I.Act against the plaintiff in the meanwhile;

21. That it is further agreed by all the parties hereto to this agreement, that all the parties shall bear this own costs and consequential expenses.

22. That all the parties hereto admit that this agreement has not been entered under coercion or undue



influence and all the parties have read and fully understood the contents of this Memorandum of compromise.

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23. That in the event of any party committing any breach of any terms contained in this agreement, then the other party shall be at liberty to have this agreement specifically enforced.

24. That all disputes shall be subject to the Jurisdiction of Courts at Chennai.

SCHEDULE

Joint Memo of Compromise



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17.09.2018

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DECREE:

DATED: 23.08.2018

THE HON'BLE MR.JUSTICE
M.SUNDAR

FOR APPROVAL:26/09/2018

APPROVED ON:26/09/2018