

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2018

CORAM

THE HON'BLE Dr. JUSTICE ANITA SUMANTH

C.S.No.74 of 2014

L.Andrews Jaikumar ..Plaintiff
Vs.

1. Tmt.Dhanalakshmi
2. Arumugam
3. Tmt. Rubini ..Defendants

PRAYER:

Plaint filed under Order IV Rule 1 of the Original Side Rules read with Order VII Rule 1 of the Code of Civil Procedure praying to direct the defendants to execute and register the sale deed in respect of the suit schedule mentioned property in favour of the plaintiff by receiving the balance sale consideration of Rs.1,00,000/- (Rupees one lakh only) in specific performance of the sale agreement dated 10.04.2014, in the event of the defendants failing to execute and register the sale deed, the plaintiff return the sale consideration of Rs.24,00,000/-(Rupees twenty four lakhs) paid under the agreement dated 10.04.2012 with interest @ 24% per annum from the rate of receipt of the said amount till the date of realization. For passing of permanent injunction restraining the defendants, his men, agents, legal representative, heirs, executors and assigns from any manner alienating or encumbering the suit schedule property by their settling the property or by mortgaging the property or in any manner whatsoever diminishing the value of the property and to direct the defendants to pay a sum of Rs.5,00,000/- to the plaintiff towards damages for the mental agony and tension underwent by the plaintiff as the result of the breach of agreement dated 10.04.2012.

For Plaintiff : Mr.A.Ramu

For Defendants : Defendants set ex parte

J U D G M E N T

The suit is filed praying for a judgment and decree directing the defendants to execute and register the sale deed in respect of the suit schedule property in favour of the plaintiff by receiving the balance sale consideration of a sum of Rs.1,00,000/- (Rupees one lakh only) in specific performance of sale agreement dated 10.04.2012 within a time frame fixed by this Court.

2. Suit summons was issued to all three defendants.

3. The defendants are stated to have been the absolute owners of the suit property situated at New No.12, Old No.48, M.G.R.Street, Anna Nagar, Taramani, Chennai-600 113.

4. The plaintiff states that he is the neighbour of the defendants and approached the defendants for purchase of the suit property and the sale consideration was fixed at a sum of Rs.25,00,000/-.

Though the plaintiff was ready for immediate purchase, the defendants had sought some time to vacate the premises and shift to an alternate suitable premises for which they had requested a substantial portion of the sale consideration to be remitted. The parties have entered into an agreement of sale dated 10.04.2012.

5. Out of a sale consideration of Rs.25,00,000/-, a sum of Rs.24,00,000/- was thus paid to the defendants on the assurance that the suit schedule property would be vacated and vacant possession handed over within three (3) months from the date of execution of the agreement of sale. The sale agreement provided for the payment of the balance consideration of a sum of Rs.1,00,000/- on the date of registration of the sale deed to be executed between the parties.

6. Despite requests from the plaintiff, the defendants committed breach of their part of the bargain and neither vacated the property nor indicated their inclination or willingness to receive the balance sale consideration. A lawyer's notice was issued on 12.08.2013 calling upon the defendants to fulfill their obligation under the sale agreement and receive the balance consideration.

7. Though the lawyers' notice was received by the defendants there was no reply to the same.

8. The defendants were served through substituted service, effected on 06.02.2015.

9. Despite the name of the defendants being printed in the cause list, there has been no response from the defendants. As no written statement was filed the suit came to be posted before the Undeclared Board on 19.07.2018. The defendants were set exparte on 19.07.2018 and the suit referred to trial before Additional Master for recording of ex parte evidence on 30.07.2018 for which purpose the suit was posted before the learned Additional Master IV on 31.07.2018 and 10.08.2018.

10. The plaintiff took the stand as PW 1 and marked the following documents as Exs.A1 to A6 vide proof of affidavit dated 27.07.2018.

Sl.No

Date

Description of Documents

Exhibits

1.

11.06.1986

Urban Land Tax Receipts

Ex.A.1

2.

Water & Sewarage Tax Receipt

Ex.A.2

3.

Electricity White Meter Card for Service No. 275-018-259

Ex.A.3

4.

29.11.2010

New Assessment by Corporation of Chennai

Ex.A.4

5.

10.04.2012

Agreement for Sale

Ex.A.5

6.

12.08.2013

Notice, Postal receipts & acknowledgment cards 3 Nos.

Ex.A.6

11. Upon recording of Ex parte evidence, the matter has been posted before Court. In the light of the fact that the defendants have been set ex parte which position continues till date and taking into account the averments in suit plaint and the evidences filed vide Exs. A1 to A6, the suit is decreed as prayed for.

12. The plaintiff is directed to deposit the balance sale consideration of Rs.1,00,000/- within a period of two(2) weeks from date of receipt of a copy of this judgment with the Registrar General of this Court, to the credit of the suit. The Registrar General will deposit the same in an interest bearing fixed deposit.

20.09.2018

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Dr.ANITA SUMANTH,J.

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