

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.11.2018

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.27780 of 2018

and

W.M.P.Nos.32299 & 32302 of 2018

1. G. Gopal
2. Lakshmi
3. Narayanan
4. Vijayan
5. Kalpana
6. Thilagavathi ... Petitioners

versus

1. The Secretary
District Legal Service Authority,
Chengalpattu.
2. D. Ravi ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in O.S.No.487 of 2008 dated 26.06.2009, passed by the 1st respondent, quash the same and consequentially to direct the suit to be adjudicated by the Principal District Judge, Chengalpattu.

For Petitioners : Mr.M.L.Ramesh
For Respondent 1 : Court
For Respondent 2 : Mr. T.N.Rajagopalan
for Mr.P.Haribabu

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O R D E R

This writ petition has been filed seeking to issue a Writ of Certiorarified Mandamus to call for the records in O.S.No.487 of 2008 dated 26.06.2009, passed by the 1st respondent, quash the same and consequentially to direct the suit to be adjudicated by the Principal District Judge, Chengalpattu.

2. The facts leading to the above case are as follows:

2.1. The property measuring about 1.31 cents in S.No.117 originally belongs to one Muniammal, who had purchased it under a registered sale deed dated 02.12.1945. On her death, the first petitioner herein and his brother Ranganathan inherited the same. As Ranganathan died intestate, the petitioners 2 to 7 as heirs had become co-owners of the property.

2.2. It was decided by the petitioners to jointly sell the property and they entered into a sale agreement with the second respondent herein on 09.12.2004 for a sale consideration of Rs.26,00,000/- (Rupees Twenty six lakhs only) and had received a sum of Rs.50,000/- as advance. The sale was agreed to be completed within a period of six months. As the sale deed was not executed, O.S.No.487 of 2008 was filed by the second respondent on the file of Principal District Judge, Chengalpattu for specific performance of the agreement for sale.

2.3. Pending the suit, the case was referred for settlement before the first respondent-Authority. The balance sale consideration of Rs.25,50,000/- (Rupees Twenty Five lakhs and Fifty thousand only) was already deposited by the second respondent and there was certain negotiations between the parties and it was reduced in to writing as a Memorandum of Understanding, as per which, the second respondent/plaintiff agreed to pay additional sum of Rs.50,00,000/- (Rupees Fifty lakhs only) to the petitioners. The said understanding was also reduced in to writing on 26.06.2009 and the parties went before the Lok Adalat and an award has been passed before the Lok Adalat. However, in the award, the amount of Rs.50,00,000/- (Rupees Fifty lakhs only) to be paid by the second respondent was omitted to be recorded. Pending the suit, the petitioner has also withdrawn a sum of Rs.25,50,000/- (Rupees Twenty Five lakhs and Fifty thousand only).

2.4. There was yet another suit in O.S.No.88 of 2006 filed by one Muralidharan claiming rival title against the petitioner. The second respondent awaited for the said suit also to be dismissed after which, he could deposit a sum of Rs.50,00,000/- (Rupees Fifty lakhs only) and get the sale executed. The said suit was dismissed on 30.06.2016 against which, it is stated that appeals in A.S.Nos.31, 32, 33 and 34 of 2016 on the file of Subordinate Court, Tambaram were filed and the same are said to be pending. Immediately after the dismissal of the said suit, the second respondent had filed an Execution Petition in E.P.No.35 of 2017 to enforce the decree passed by the first respondent.

3. While so, the petitioners herein have filed the above writ petition for Certiorarified Mandamus to call for the records in O.S.No.487 of 2008 dated 26.06.2009 passed by the

District Legal Services Authority and quash the same, as the fraud was played by the second respondent by not including payment of Rs.50,00,000/- (Rupees Fifty lakhs only) as additional consideration in the Memorandum of Understanding.

4. Heard, the learned counsel on both sides.

5. The learned counsel appearing for the second respondent has also filed counter and made submissions.

6. After hearing the parties for some time it was agreed by the second respondent that he is ready to pay Rs.50,00,000/- (Rupees Fifty lakhs only), as it was admitted by him that the agreement was true. On payment of the said Rs.50,00,000/- (Rupees Fifty lakhs only), the petitioners have to execute the sale deed in favour of the second respondent. However, due to the passage of time there is a escalation of price for the properties. Hence, the learned counsel appearing for the petitioners insisted for payment of interest.

7. As the representative for both the parties were present in the Court, the parties arrived at a consensus that apart from Rs.50,00,000/- (Rupees Fifty lakhs only) which has been agreed to, a sum of Rs.10,00,000/- (Rupees Ten lakhs only) be paid by the second respondent, which may be in lieu of either interest or escalation of price. Both the parties now agreed that a sum of Rs.60,00,000/- (Rupees Sixty lakhs only) will be paid by the second respondent to the petitioners and the petitioners are directed to execute the sale deed in favour of the second respondent thereafter on a date that may be agreed to by both the parties. However, the said exercise should be completed within a period of two weeks.

8. With the above directions, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

9. Post "For compliance" on 30.11.2018.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rsi

To

The Secretary,
District Legal Service Authority,
Chengalpattu.

+2ccs to Mr.F.Hari Babu, Advocate, S.R.No.77782

W.P.No.27780 of 2018

and

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PPA (CO)

rrs 19/11/2018



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