

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 25TH DAY OF FEBRUARY 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

A.No.4947 of 2018

in

C.S.No.587 of 2016

1.Mrs.Thenmozhi
W/o.Late A.Joseph

2.J.Arul Basker
S/o.Late A.Joseph

3.J.Rapeeta Earnest Mary
D/o.Late A.Joseph

4.A.Stephen
S/o.Late A.Joseph

1 to 4 all residing at
New No.7, Old No.4, 7th Street
Gopalapuram, Chennai - 86.

...Plaintiffs

-Vs-

1.A.Michael
S/o.Late M.S.Arulanandam
No.54, Cathedral Road
Opp Hotel Chola
Chennai -86.

2.A. Jesudass
S/o.Late M.S.Arulanandam
Dass India Tower, No.3
Second Lane Beach Road
Parrys, Chennai - 1.

3.A.Arokia Swamy
S/o.Late M.S.Arulanandam
New No.5, Old No.3, 7th Street
Gopalapuram
Chennai -600 086

4.A.John
S/o.Late M.S.Arulanandam
S.B.O Colony Main Road
By pass road, Madurai - 625 010.

5.A.James
S/o.Late M.S.Arulanandam
C/o.Capital Colour Lab
No.48, N.G.Narayanasamy Street
Puduchitthapudur, (New Siddhapudar)
Ganapathy Nagar, Coimbatore - 641 006.

6.A.Pouline Mary
S/o.Late M.S.Arulanandam
Dass India Tower, No.3
Second Land Beach Road
Parrys, Chennai -1.

7.A.Augustine
S/o.Late M.S.Arulandandam
Dass Colour Lab, New No.29
Old No.15, Prakasam Street
T.Nagar, Chennai - 600 017.

8.J.Arokia Aruna
D/o.Late A.Joseph
New No.7, Old No.4, 7th Street
Gopulapuram, Chennai -86.

...Defendants

A.No.4947 of 2018:

1.A.Michael
S/o.Late M.S.Arulanandam
No.54, Cathedral Road
Opp Hotel Chola
Chennai -86.

: Applicant/Ist Defendant

-Versus-

1.Mrs.Thenmozhi
W/o.Late A.Joseph

2.J.Arul Basker
S/o.Late A.Joseph

3.J.Rapeeta Earnest Mary
D/o.Late A.Joseph

4.A.Stephen
S/o.Late A.Joseph

1 to 4 all residing at
New No.7, Old No.4, 7th Street
Gopalapuram, Chennai - 86.

: Respondents/Plaintiffs

5.A. Jesudass
S/o.Late M.S.Arulanandam
Dass India Tower, No.3
Second Lane Beach Road
Parrys, Chennai - 1.

6.A.Arokia Swamy
S/o.Late M.S.Arulanandam
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11.J.Arokia Aruna
D/o.Late A.Joseph
New No.7, Old No.4, 7th Street
Gopalapuram, Chennai -86.

...Respondents/Defendants

Application praying that this Hon'ble Court be pleased to permit the bank officials/surveyor of Catholic Syrian Banl Second Line beach branch to inspect and take measurements of the property No.4, 7th Street, Gopalapuram, Chennai -600 001 in the presence of Police Officials and in the presence of an Advocate Commissioner.

This Application coming on this day before this court for hearing the court made the following order:

This application has been filed seeking an order to permit the Bank officials to inspect the suit 'H' Schedule Property.

2. Admittedly, the suit 'H' Schedule Property is in possession of the plaintiffs. An order of injunction was passed on 31.08.2006 restraining the defendants from encumbering the suit schedule properties and the same was periodically extended. During the currency of the order of injunction, it appears that the 2nd defendant along with the sons of the 1st defendant had created a mortgage in respect of the suit 'H' Schedule Property on 3rd August 2017 for a sum of Rs.40,00,000/-. There was already a subsisting mortgage in respect of the very same property for a sum of Rs.4,00,00,000/- on 03.12.2010.

3. The prayer in the present application seeking permission for inspection is sought to be justified by

producing a letter from the Catholic Syrian Bank dated 11.10.2018, wherein, the Bank has required the applicant/ 1st defendant to make arrangements for inspection of the building by the Bank's approved valuer. The said letter shows that the norms of the Bank require re-valuation of the security once in three years and such re-valuation has not been done since 2012.

4. Therefore, I see no ground to permit the Bank Officials to inspect the property at this point of time when the order of injunction granted by this Court has been flouted by the applicant along with the sons of the 2nd defendant.

5. In view of the same, this application is **dismissed**.

Sd./- R.S.M.J.

25.02.2019

//Certified to be a true copy//

Dated this the day of 2019.

DL/05.03.2019

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.