

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20..12..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Civil Revision Petition No.2297 of 2019
and
C.M.P.No.14985 of 2019

Rafiq Ahamed

... Petitioner

-Versus-

1.Mr.Mohan Kumar

2.The Hinduja Leyland Finance Ltd.,
Corporate Office at
No.27A, Navin's Dayton Heights,
No.76, Nelson Manickam Road,
Chennai 600 029.

3. The District Registrar Office,
Chennai Central,
No.182, Bharathi Salai (Pycrofts Road),
Royapettah, Chennai 600 014.

4. The Secretary,
Art Apartment Owners Association,
Mr.Tej Prakash Jain,
New No.32 and 33, Old No.28 and 29,
Kothari Road,
Nungambakkam, Chennai 600 034.

... Respondents

Petition filed under Article 227 of the Constitution of India, praying to strike of the plaint in O.S.No.1557 of 2019 pending on the file of the learned Principal District Judge, City Civil Court, Chennai.

For Petitioner

: Mrs.Bagyalakshmi V.

For Respondent(s)

: Mr.A.R.M.Arunachalam for R1

No appearance for RR2 to 5

WEB COPY

ORDER

This civil revision petition has been filed seeking to strike off the plaint in O.S.No.1557 of 2019 pending on the file of the learned Principal District Judge, City Civil Court, Chennai.

2. The respondent is the plaintiff in the above said suit. The said suit has been filed for (i) recovery of a sum of Rs.29,00,000/- together with interest @ 24% p.a. on the principal amount of Rs.25,00,000/- from the date of plaint till date of repayment; (ii) permanent injunction restraining the 1st defendant, his men, agent, subordinates from alienating, encumbering the schedule mentioned property in any manner; (iii) permanent injunction restraining the 2nd defendant, his men, agent, subordinates from releasing with the original title deeds pertaining to the suit schedule mentioned property held in charge by them to the 1st defendant or his men, agent, subordinates; (iv) permanent injunction restraining the defendants 3 and 5, their agents, subordinates from entertaining any sale process or alienations encumbering over the schedule mentioned property in any manner at the instance of the 1st defendant or his men, agents, subordinates; (v) permanent injunction restraining the 4th defendant from issuing any No Objection Certificate to the 1st defendant over the sale process on the schedule mentioned property; and (vi) for costs of the suit.

3. Earlier notice was ordered to the respondents. On notice, the 1st respondent entered appearance through his counsel. Though notice was served on the respondents 2 to 5, they did not choose to appear either in person or through a counsel.

4. It could be seen from the records that earlier, at the instance of the learned counsel for the petitioner, this matter was adjourned to 26.09.2019 recording the submissions of the petitioner which reads as follows:-

"At request of the learned counsel for the petitioner, on the ground that there is some possibility of settling the matter between the parties at the lower court level and in order to explore the same, he seeks two weeks time. Though the said proposal has been denied by the learned counsel for the respondents, as he has no such instructions, in order to give a chance for such possibility, post the matter on 26.09.2019."

5. Today, when the matter was taken up for hearing, the learned counsel for the petitioner submitted that the dispute involved in the suit has been settled between the parties amicably and the petitioner is ready and willing to pay a sum of Rs.24,00,000/- to the 1st respondent/plaintiff and the 1st respondent/plaintiff has agreed to receive the said sum towards full consideration of his claim in the suit.

6. The learned counsel for petitioner further submitted that pursuant to the compromise entered into, the petitioner and the 1st respondent have reduced the terms of compromise into writing and have also signed the same. The learned counsel for the 1st respondent admitted the above position. The terms of the compromise reads as follows:-

"1.The plaintiff Mr.Mohan Kumar / 1st respondent, originally intended to purchase the property belonging to the Revision Petitioner / 1st Defendant for a sum of Rs.7.90 crores and had paid an advance of Rs.25,00,000/- to the Revision Petitioner.

2. However the sale transaction between the parties did not fructify, ultimately leading for the plaintiff to file the suit in O.S.No.1557 of 2019 before the learned III Additional City Civil Judge, Chennai, for recovery of money as against the Revision Petitioner Mr.Rafiq, for a sum of Rs.29,00,000/- (Rupees Twenty Nine Lakhs) together with interest at 24% p.a. on the principal Rs.25,00,000/- from the date of plaint till date of repayment.

3. Pending suit proceedings above Civil Revision Petition before this Hon'ble COURT, the plaintiff / 1st respondent - Mohan Kumar son of Sundaram residing at the plaint address, has agreed to receive the sum of Rs.24,00,000/- (Rupees Twenty Four Lakhs only) as full and final settlement, waiving off the entire interest component payable till date.

4. The said Rs.24,00,000/- is paid by the Revision Petitioner / 1st Defendant to the 1st respondent /plaintiff by means of Cheque dated 17.12.2019 bearing No.000956, drawn at Andhra Bank, Chetpet Branch, Chennai, favouring the plaintiff.

5. The plaintiff confirms that he shall withdraw the suit unconditionally and there is no claim as on date / or in future shall be laid and pending as against the 1st

defendant / Revision Petitioner Mr.Rafiq or his assignees or representatives, staff or any other person claiming through him.

6. The attachment order made in I.A.No.3 of 2019 in O.S.No.1557 of 2019 and dated 09.07.2019 shall stand lifted and extinguished, based on this compromise memo, thereby

(i) There shall be no right, attachment, lein in any manner charge or encumbrance for the respondent/plaintiff hereinafter to interfere or claim anything from this petitioner herein or towards his schedule mentioned property;

(ii) Enabling the revision petitioner / 1st defendant to deal with the property belonging to him of his choice the respondent or his men has no manner of any right to interfere in the petitioner herein or towards his schedule mentioned property.

(iii) Enabling the 1st respondent/plaintiff to file appropriate application for refund of the entire court-fee paid by him.

7. There shall be no more claims laid by each other herein or against each other of any kind in future.

8. The parties to the suit agree to the aforesaid terms and conditions of this memorandum of compromise unconditionally without any influence or coercion and have executed and filed the same before this Hon'ble Court as full and final settlement in respect of the aforesaid transaction.

9. This memorandum of compromise shall be binding on both the parties.

10. The same may be recorded and suitable orders be passed by this Hon'ble Court and thereby render justice."

7. Pursuant to the compromise, today, a cheque, bearing No.000956 dated 17.12.2019 drawn on Andhra Bank, Chetpet Branch, Chennai, in favour of the 1st respondent, has been handed over to the counsel for the 1st respondent.

8. Considering the fact that the dispute has been settled between the parties amicably by entering into compromise, the plaint in O.S.No.1557 of 2019 on the file of the learned

Principal District Judge, Chennai, shall stand struck off. The compromise memo shall form part and parcel of this order.

In the result, this Civil Revision Petition is allowed in view of the Joint Compromise Memo entered into between the petitioner and the 1st respondent. Accordingly, the impugned order is set aside and the plaint in O.S.No.1557 of 2019 on the file of the learned Principal District Judge, Chennai, shall stand struck off. Consequently, the connected CMP is closed and the interim order of stay granted by in the above said miscellaneous application shall stand vacated. No costs. Consequently, connected CMP is closed.

Post this matter for reporting compliance on 02.01.2020.

kmk 20.12.2019

This court, earlier, by order 20.12.2019 disposed of the above civil revision petition in terms of the compromise entered between the parties with a direction to this Registry to list this matter today for reporting the position with regard to realization of the cheque in question.

2. Today, accordingly, when the matter is taken up today, the learned counsel for the 1st respondent submitted that the cheque bearing No.000956 dated 17.12.2019 drawn on Andhra Bank, Chetpet Branch, Chennai, in favour of the 1st respondent which was handed over on 20.12.2019 to the 1st respondent through his counsel has been realized by the 1st respondent.

3. In the light of the above, this court is of the view that no further adjudication is required in this matter and the order of this court dated 20.12.2019 shall hold the field.

(* Memo of Compromise Xerox copies Enclosed)

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

1.The Principal District Judge,
City Civil Court, Chennai

Civil Revision Petition
No.2297 of 2019

VSNI (CO)
SP(14/10/2020)