

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 18TH DAY OF SEPTEMBER 2019

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.No.6012 of 2019

in

C.S.No.16 of 2019

M.Basheer Ahmad
Green Palace
No.67, Ramaswamy Street,
Mannady, Chennai 600 001.

:APPLICANT/Plaintiff

Vs

1. Ms.J.M.H.Hazarath Bi alias Haju
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017.

2. Ms.Aarifa
No.15/7, Hyder Garden, 2nd Street,
Perambur - Jamalía
Chennai 600 012.

3. Ms.Zubaida
No.131, 1st Floor,
MMD Colony, Mugappair East,
behind MMM Hospital,
Chennai 600 037.

4. Ms.Mumtaz
No.15/7, Hyder Garden, 2nd Street,
Perambur - Jamalía
Chennai 600 012.

5. Ms.Maimoona Khwaja
No.18B, Cauvery Salai,
Gandhi Nagaram, Kodungaiyur,
Chennai 600 118.

6. Ms.Balkhees Bi
No.46, Shaik Maistry
Royapuram, Chennai 600 013.

7. Ms.H.Zainab
No.11, U Block,
4th Main Road, Anna Nagar,
Chennai 600 040.

8. Ms.H.Mariyam
No.131/3, Panchali Amman Koil Street,
Arumbakkam, Chennai 600 106.

9. J.M.Haroon Rasheed
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017.

10. Imran
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017. :RESPONDENTS/Defendants

A.No.6012 of 2019:

1. Ms.J.M.H.Hazarath Bi alias Haju
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017.

2. J.M.Haroon Rasheed
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017.

3. Imran
No.9, Vijayagavachari Lane,
T.Nagar, Chennai 600 017. ...Applicant/Defendant-1,9and 10

-Vs-

1. M.Basheer Ahmad
Green Palace
No.67, Ramaswamy Street,
Mannady, Chennai 600 001 ..Respondent/ Plaintiff

2. Ms.Aarifa
No.15/7, Hyder Garden, 2nd Street,
Perambur - Jamalia
Chennai 600 012.

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No.131, 1st Floor,
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..Respondents/Defendants 2 to 8

This applicaiton praying that this Hon'ble Court be
pleased to reject the Plaint in C.S.No.16 of 2019 with cost.

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

The present Application has been filed seeking to
reject the plaint in C.S.No.16 of 2019 with cost.

2. The learned counsel for the applicants/defendants
1, 9 & 10 submitted that the defendants 1, 9 & 10 have
filed the present Application seeking the rejection of
plaint on the ground that the same has no valuable cause of
action and also barred by law. He further submitted that
the first respondent's/plaintiff's suit claim is that the
first defendant is holding 85,949 Sq.Ft., of UDS in the
larger extent of the suit property as a Benami for the
benefit of the first respondent/plaintiff for the proposed
joint venture and commercial entity. He would also submit
that the dispute involved in the present suit is a Benami
Transaction. He therefore prayed that the present
Application may be allowed.

3. Heard the learned counsel for applicant/defendants 1, 9 & 10 and perused the entire suit papers.

4. It is seen that the suit itself is filed for partition and the plaintiff is a co-owner to an extent of 21,000/- Sq.Ft in the suit schedule property. It is also seen that the defendants 1, 9 & 10 have filed the present Application seeking to reject the plaint in C.S.No.16 of 2019 stating that the plaint claim would fall within the ambit of Section 2(ix) of the Prohibition of Benami Property Transaction Act, 1988 as amended by Act 43 of 2016 since the dispute involved in the present suit is a Benami Transaction and therefore, the plaint barred by law. However, considering the facts and circumstances of the case, this Court is of the view that the plaint in C.S.No.16 of 2019, cannot be rejected merely for the reasons stated by the applicants/defendants 1, 9 & 10 herein and therefore, the present Application is liable to be dismissed.

5. Accordingly, this Application is dismissed.

सत्यमेव जयते Sd/-N.S.K.J.

18.09.2019

//Certified to be a true copy//

Dated this the day of 2019.

Su/25.09.2019

COURT OFFICER

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