

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

O.A.No.1036 of 2018

in

C.S.No.761 of 2018

1.Mrs.Jacintha Selvaraj
D/o.Late R.Thangam @ R.Thangadurai
W/o.Mr.Selvaraj
No.203, E Block, Chithra Township
Ist Phase, Dhargha Road, Zamin Pallavaram
Chennai - 600 043.

2.Mrs.Lissie Lawrence
D/o.Late R.Thangam @ R.Thangadurai
W/o.Lawrence
D1/12, Kendriya Vihar Phase II
Paruthipattu, Poonamallee Avadi High Road
Avadi, Chennai - 600 071.

...Applicants/Plaintiffs

-Vs-

1.Mr.T.Aloysius Raj
S/o.Late R.Thangam @ R.Thangadurai
No.29/4, Railway Colony 2nd Street
Nelson Manikam Road, Aminjikarai
Chennai - 600 029.

2.M/s.India Builders
Represented by its Managing Director
Having their Office at AA-36, 3rd Main Road
3rd Street, Anna Nagar, Chennai 600 040.

...Respondents/Defendants

Original Application praying that this Hon'ble Court be pleased to grant an order of Interim Injunction restraining the Respondents/Defendants, their men, agents, representatives and any other person claiming under them from dealing, encumbering, alienating, changing the nature of suit property without partition the same pending disposal of the above suit.

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

This application has been filed seeking an order of interim injunction restraining the respondents from putting up construction over the suit property.

2. The plaintiffs who are the daughters of the deceased R.Thangam @ Thangadurai who died on 20.12.2008 have come forward with the present suit claiming 1/3rd share in the suit property. The 1st respondent is the son of the said R.Thangam @ Thangadurai and the 2nd respondent is the builder with whom the 1st respondent has entered into an agreement for development of the property.

3. The respondents would resist the application contending that the deceased R.Thangam @ Thangadurai had left a Will dated 22.08.2002, in and by which, he had bequeathed the entire property in favour of the 1st respondent. The status of the plaintiffs/ applicants as daughters of R.Thangam @ Thangadurai is not denied. However, the defendants/ respondents would contend that the plaintiffs are not entitled to any share in the property, in view of the Will left behind by R.Thangam @ Thangadurai. Admittedly, the father R.Thangam @ Thangadurai died in the year 2008 and the plaintiffs have not raised their little finger for nearly 10 years till they filed this suit on 8th October 2018. The

prolonged silence of the plaintiffs after the death of R.Thangam @ Thangadurai would speak volumes. Moreover, the 1st respondent has only entered into a development agreement and it is stated that the construction is being carried out as per the development agreement. If the applicants/ plaintiffs succeed in the suit, they would be entitled to shares in the developed property.

4. Hence, I do not see any *prima facie* case for grant of an order of injunction pending suit. Accordingly, this application is dismissed. No costs.

5. Post the suit for "Framing Issues" on 01.03.2019.

Sd/R.S.M.J.

25.02.2019

//Certified to be a true copy//

Dated this the th day of 2019.

DL/27.02.2019

COURT OFFICER

सत्यमेव जयते

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

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