

A.No.1966 of 2020
in
C.S.No.364 of 2008

P.T. ASHA, J.

This application has been filed for refund of the deposited sum of Rs.65 lakhs together with accrued interest of Rs.15,87,689/-.

2.It is the case of the applicant that she had filed a suit for Specific Performance of the Agreement of Sale dated 01.03.2005 in C.S.No.364 of 2008. The suit was decreed on 13.08.2013 after the defendants have been set *ex parte* for their non appearance. This Court had directed the applicant to deposit the balance sale consideration of Rs.65 lakhs to the credit of the suit within a period of four weeks from the date of receipt of the Judgment and the defendants were directed to execute the Sale Deed in favour of the plaintiff.

3.The applicant would submit that they were unable to make the deposit within the time stipulated by this Court and therefore, they had filed A.No.781 of 2015 for extending time for deposit. By order dated 28.08.2015, this Court had extended time for a further period of two weeks

and thereafter, the applicant deposited Rs.65 lakhs on 16.08.2015 by way of Demand Draft favouring the Registrar General, Madras High Court to the credit of the suit. Since the respondents had not come forward to execute the Sale Deed the applicant has moved E.P.No.29 of 2016 before this Court. In the meanwhile, the applicant came to understand that after the Judgment and Decree of this Court, the defendants had sold the property to one S.Sundari on 01.07.2015 and she in turn has executed the Settlement Deed in favour of his son on 02.02.2016. The Sale and the subsequent Settlement appears to be a collusive one and the applicant is not desirous of getting into further legal battle. Therefore, the present application has been filed.

4.Heard the learned counsel for the applicant and perused the papers.

5.Considering the fact that the applicant is not desirous of executing the Decree dated 13.08.2013, in view of the Sale in favour of the third parties and taking into account the reasons given by her in the affidavit filed in support of this application, this Court is of the view that interest of justice would be sub served if the application is ordered and the applicant is

permitted to withdraw the sum of Rs.65 lakhs together with accrued interest deposited to the credit of the suit C.S.No.364 of 2008.

This application is ordered as prayed for.

29.10.2020

mps



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