IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY,THE 16TH DAY OF SEPTEMBER 2020

THE HON'BLE MS. JUSTICE P.T.ASHA

A.1604 of 2020
in
C.S.No.479 of 2019

1.M/s.B.MR.Ventures,
a Partnerships Firm Represented by its Partner
Mr.S.Mohanraj
Door No.7 and 8
29th Cross Street, Kalakshetra Colony,
Besant Nagar, Chennai 600 090.

2.V.Balakrishnan,
Son of Varadan,
No.21/6 First Floor, Coral Nest 'J' Apartment,
Shastri Nagar, Adyar, Chennai 600 020. ..Plaintiffs

-Vs-

Mrs.Neelavathi,
Wife of late Varadan,
Door No.54/21, Plot No.177
Nethaji 6th Street,
Lakshmipuram, Thiruvanmiyur,
Chennai 600 041. ..Defendant

A.No.1604 of 2020:

Mrs.Neelavathi,
Wife of late Varadan,
Door No.54/21, Plot No.177
Nethaji 6th Street,
Lakshmipuram, Thiruvanmiyur,
Chennai 600 041. ..Applicant/Defendant

-Vs-

1.M/s.B.MR.Ventures,
a Partnership Firm Represented by its Partner
Mr.S.Mohanraj
Door Nos.7 and 8
29th Cross Street, Kalakshetra Colony,
Besant Nagar, Chennai 600 090.

2.V.Balakrishnan,
Son of Varadan,
No.21/6 First Floor, Coral Nest 'J' Apartment,
Shastri Nagar, Adyar,
Chennai 600 020. ..Respondents/Plaintiffs

Application praying that this Hon'ble Court be pleased to return the plaint to the Plaintiffs for presenting the same before the appropriate Court having jurisdiction over the present suit.

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

The above application is filed by the defendant in the suit for return of the plaint for presenting the same before the appropriate Court having jurisdiction. The suit has been filed for the following reliefs:

> *"(a) To permit the plaintiffs to specifically enforce and perform their obligations of constructing the building in the schedule mentioned property as per plan sanctioned by the Corporation of Chennai dated 04.10.2016, handing over and apportioning of UDS land and built up area to the defendant in accordance with the Joint Development Agreement dated 25.09.2015, Joint Venture Agreement dated 24.02.2016; or in*

the alternative direct the defendant to pay to the 1st plaintiff the sum of Rs.15,00,000/- with interest at 18% p.a from 24.02.2016 to till date of realization.

(b) To declare that the General Power of Attorney deed dated 24.02.2016 registered as Doc No.1981 of 2016 in the office of the Chennai South Sub-Registrar Joint I Saidapet is valid, operative and binding on the plaintiff and defendant.

(c) To direct the defendant to pay the expenses of Rs.5,84,750/- with interest at 18% from the date of plaint to till date of actual realization towards costs incurred by the plaintiffs for the work done by them pursuant to the Joint Development Agreement and the general Power of Attorney deed ;

(d) To grant a decree of permanent injunction restraining the defendant from in any manner create any encumbrance to the suit property by way of sale, mortgage, exchange, power deed, any other sale agreement, or joint development agreement with any third parties;

(e) To grant a decree of permanent injunction restraining the defendant from cancelling the power of

attorney deed dated 24.2.2016 registered as Doc No.1981 of 2016 in the Office of the Chennai South Sub-Registrar Joint I Saidapet.

(f) directing the defendants to pay the costs of the suit to the plaintiff and to pass such further or other orders as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case and thus render justice."

2. The applicant / defendant has come forward with this application on the ground that the respondents / plaintiffs have over valued the suit so as to bring it within the Jurisdiction of this Court. It is the contention of the applicant that the respondents cannot value the building which is yet to be constructed and has to only value 50% undivided share of the property which works out to a sum of Rs.70,92,335/-. Therefore, it is her contention that the suit should be filed before the City Civil Court and not before this Court. For these reasons she would seek to have the plaint returned.

3. The respondents filed a counter inter alia contending that the suit is filed for specifically enforcing the Joint Development Agreement dated 25.09.2015 and Joint Venture Agreement dated 24.02.2016 and under these

agreements the respondents are entitled to both the undivided share on the land as well as three flats. Therefore, the suit has been valued on both the land as well as the building.

4. The respondents would contend that 50% of the land value works out to Rs.70,92,335- and the proposed building also works out to a sum of Rs.71,29,123/- and therefore, the total value of the suit is Rs.1,42,21,458. The respondents would therefore submit that it is only this Court that has the Jurisdiction to hear the suit.

5. Mr.K.R.Arun Shabari, learned counsel for the applicant would submit that even according to the respondents the Court fee had to be valued under Section 42 (e) of the Tamil Nadu Court Fees and Suit Valuation Act, 1955. A reading of this Section would show that the market value of the consideration payable to the respondents is the suit value and this would come only to a sum of Rs.29,70,468/- as per respondents certified valuer. Therefore, he would contend that the suit cannot be maintained before this Court.

6. Mr.S.Muthukumar, learned counsel for the respondents would

contend that the suit has been rightly valued since both the undivided share and the built up area has to be allotted to the respondents and since the suit is for enforcing the Joint Venture Agreement / Joint Development Agreement the respondents have to value both the land and the building. Therefore, no exception can be taken to the valuation and the Court fee paid.

7. Heard the learned counsels and perused the papers.

8. As seen from the plaint the prayer is one for enforcing the Joint Development Agreement dated 25.09.2015 and Joint Venture Agreement dated 24.02.2016, under these agreements the respondents are entitled to a 50% in the undivided share and they are also entitled to three flats totally ad measuring 1650.26 Sq.ft as indicated by the registered valuer whose report has been filed as Document No.34. The respondents have valued not only 50% undivided share but has valued the building for the entire built up area that is the total extent of 3300.52 Sq.ft. However, the respondents are only entitled to 1650.26 Sq.ft. The market value of the land is a sum of Rs.1,41,84,670/-, 50% of it is Rs.70,92,335/- and the built up area falling to the share of the respondents is also valued at Rs.29,70,468/- put together works out to a sum of Rs.1,00,62,803/-. Therefore, even if it is calculated in

this manner the suit has been rightly filed into this Court.

9. I do not find any merits in the application filed by the applicant and the same is accordingly dismissed.

10. The original records shall be handed over back to the Records Section.

Sd./-P.T.A.J
16.09.2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 25/09/2020 COURT OFFICER(O.S.)

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