

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.08.2020

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

A.No.1669 of 2020

1. Mrs. Edith Pithavadian

2. Ms. Shakunthala Pithavadian

...Applicants

Vs.

1. Estate of Anand Rajkumar Pithavadian

Represented by its Intermediator & Legal Heir

Mrs. Rashmi Pithavadian

D/o. Late. Anand Rajkumar Pithavadian

Unit No.2, 78, Lethbridge Street,

Penrith NSW, 2750 Australia.

2. Ranjit Raj William

3. Badrinarayanan

....Respondents

Prayer: Application filed seeking to grant leave to institute the intending suit as against the 1st respondent/1st defendant namely Rashmi Pithavadian,

Daughter of Late.Anand Rajkumar Pithavadian, residing at Unit No.2, 78,

Lethbridge Street, Penrith NSW, 2750 Australia.

For Applicants : Mr. R. Thiagarajan

ORDER

The above Application is filed seeking leave to sue the first-respondent, who is residing in Australia.

2. The suit is filed for the following relief:

a) To declare the Settlement Deed dated 09.01.2014 and registered as Document No.23 of 2014 in the Office of the Sub Registrar Joint II, (District Registrar Cadre), Thousand Lights, Registration District of Chennai Central executed by the 1 plaintiff in favour of her deceased son Anand Rajkumar Pithavadian in respect of her half share in the suit schedule property is vitiated by fraud, undue influence, misrepresentation and coercion and declare the same as illegal, invalid, non-est in the eyes of law and consequently direct the cancellation of the same ;

b) Grant a decree for mandatory injunction directing the defendants to surrender the instrument captioned as "Deed of Settlement" dated

Sub Registrar Joint II, (District Registrar Cadre), Thousand Lights, Registration District of Chennai Central duly cancelled on a day to be fixed by this Hon'ble Court ;

c) Direct partition and separate possession of the suit property into two equal shares and allocate one such share to the 1 plaintiff's daughter the 2nd plaintiff being the beneficiary of the Settlement Deed dated 06.01.2020 and registered as Document No.13 of 2020 in the Office of the Sub Registrar Joint II, (District Registrar Cadre), Thousand Lights, Registration District of Chennai Central and pass a preliminary decree for partition in favour of the plaintiffs;

d) For a declaration that the purported Sale Deed dated 06.03.2020 and registered as Document No.382 of 2020 in the Office of the Sub Registrar Joint II, (District Registrar Cadre), Thousand Lights, Registration District of Chennai Central executed by the defendants 1 and 2 in favour of the 3rd defendant is per se illegal. invalid and non-est in the eyes of law and consequently not binding upon the plaintiffs and their share in the suit property;

e) Grant a decree for permanent injunction restraining the defendants, their men, agents, servants or any other person or persons claiming through them from in any manner interfering with the peaceful possession of the suit property by the plaintiffs ;

f) Grant a decree for permanent injunction restraining the defendants, their men, agents, servants or any other person or persons claiming through them from in any manner alienating or encumbering or dealing with the suit property either by way of sale, mortgage, lease or joint development without reference to the rights of the plaintiffs :

g) Directing the defendants to pay the plaintiffs a sum of Rs.1,00,00,000/- with the future interest at 18% p.a from the date of plaint till the date of realization as damages on account of the fraudulent document/transaction created by them in collusion and connivance in respect of suit property;

3. Since the suit property is situated within the jurisdiction of this Court and as the cause of action for the institution of the suit has also arisen within the jurisdiction of this Court, leave to sue is granted.

4. The Registry is directed to number the suit, if otherwise in order.

Sd/.P.T.A.J.
17.08.2020

//Certified to be a true copy//
Dated this the day of 2020.

SU/26/08.2020 COURT OFFICER(O.S.)

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



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