

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY, THE 03RD DAY OF NOVEMBER 2020

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A.No.7159 of 2018

IN

E.P.No.95 of 2017

SMT.SAILAJACHITTA

W/o.K.R.Jagannathan Kuttambakkam,

Partner M/s.United Force,

(a registered partnership firm),

Residing at No.4, (Old No.33),

Krishna Street,

T.Nagar, Chennai - 600 017.

...Applicant/Decree Holder

-Vs-

1. M/S.UNITED FORCE

Registered Partnership firm,

Rep by its Partner, No.4,

V.V.Koil Street,

Chinmayanagar,

Chennai-600 111.

2. MR.K.RAJASEKAR,

PARTNER, M/s United Force,

No.4, V.V.Koil Street,

Chinmayanagar,

Chennai - 600 111.

3. MR.K.V.PRASAD,

PARTNER,

M/s.United Force, No.4,

V.V.Koil Street,

Chinmayanagar,
Chennai - 600 111.

4. THE CHENNAI METROPOLITAN
DEVELOPMENT AUTHORITY (CMDA),
Rep.by its member Secretary, No.1,
Gandhi Irwin Road, Egmore,
Chennai -600 008.

5. M/S.LABEL KINGDOM
Plot No.1 & 2, E Road,
Koyambedu,
Chennai-600 107.

6. M/S.DESIGN CLASSICS PRIVATE LIMITED,
Rep.by its Director,
No.9/9A, V.V.Koil Street,
Chinmaya Nagar,
Chennai - 600 111.

..Respondents/JuegmentDebtors

This application praying that this Hon'ble court be please to set aside the Fair and decreetsl order dated 27.02.2018 passed by the Honourable High Court of Madras in EP No.95 of 2017 in CS No.915 of 2008 till the disposal of the above application on the file of this Honourable Court.

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

This appeal has been filed against the Order passed by the learned Master dismissing the execution petition which has been filed for directing the fifth and sixth respondents to pay a sum of Rs.50,000/- as compensation from 23.05.2010 to 25.05.2017, totally a sum of Rs.87 lakhs for 87 months

and also for a direction to hand over vacant possession of the property by the fifth and sixth respondents to the applicant.

2. In the counter, it is the specific case of the respondents that as per the compromise decree passed by this Court earlier, flats have been handed over to the 1st respondent as early as on 01.12.2011 by a letter dated 01.12.2011 and possession has also been taken by the first respondent, wherein, the applicant is also a partner in the first respondent firm. The applicant is residing outside the country and permanently residing in USA and the possession was taken by the first respondent on behalf of the applicant. Therefore, resisted the execution petition on the ground that no compensation is payable.

3. The learned Master, after considering the contentions of either side and the nature of compromise decree passed by this Court, held that the possession of flats, which was subject matter of the decree, was handed over as early as on 01.12.2011 to the first respondent by a letter dated 01.12.2011 and the above factum has not been denied by the applicant specifically nor by any rejoinder and therefore, dismissed the execution petition. As against which, the present appeal has been filed.

4. During the pendency of this appeal, it is also brought to the notice of this Court that the parties have arrived at a settlement and memorandum of settlement is also executed by the parties on 17.12.2017

5. The matter has already been settled between the parties and the execution petition itself has only been filed for the alleged compensation for delay in handing over of the possession. Such being the position, as recorded by the learned Master, possession has already been handed over as early as on 01.12.2011 and the possession has been taken by the first respondent and the above fact has not been denied, therefore, the question of paying compensation for unlawful occupation does not arise at all. Hence, I do not find any infirmity or illegality in the Order passed by the learned Master.

03.11.2020

Certified to be a true copy//

03.11.2020

Dated this the day of 2020.

COURT OFFICER(O.S.)

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