

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 3RD DAY OF FEBRUARY 2020

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

A.No.9177 of 2019

in

O.A.No.1027 of 2019

in

C.S.No.518 of 2019

1.Mrs.Poornema (30 years)
W/o.Mr.Naveen Madhavan,
Old No.14-B, New No.4,
Venkatesan Nagar,
First Main Road,
Virugambakkam,
Chennai-600 092.

2.Ms.Aiswarya Sudakar, (25 years)
D/o.Mr.Sudhakar,
Old No.14-B, New No.4,
Venkatesan Nagar,
First Main Road,
Virugambakkam,
Chennai-600 092.

..Applicants/Plaintiffs
(O.A.No.1027 of 2019)

-Versus-

1.V.Devaki
S/o.Late N.Ravindra Manon
No.113, R.K.Lakshmana Swami Salai,
West K.K.Nagar, Chennai-78
(Erstwhile Partner of Vasu Studios)

2.V.Haridoss
S/o.Late.N.Vasudeva Manon
No.329-B, Second Floor,
Jayam Flat, Alagiri Samy Salai,
West K.K.Nagar, Chennai-78
(Erstwhile Partner of Vasu Studios)

3.V.Ravindran
S/o.Late N.Vasudeva Manon
Flat No.1-A, Jayam Flat,
Alagiri Samy Salai,
West K.K.Nagar, Chennai-78
(Erstwhile Partner of Vasu Studios)

4.The Tamil Nadu Consumers,
Co-Operative Federation,
Rep by its Managing Director,
291/2, N.S.K.Salai,
Chennai-600 093.

..Respondents/Defendants
(O.A.No.1027 of 2019)

O.A.No.1027 of 2019:

Original Application praying that this Hon'ble Court be pleased to grant an ad-interim injunction restraining the respondents herein from in any way encumbering the plaint schedule property further pending disposal of the above suit.

A.No.9177 of 2019:

The Tamil Nadu Consumers,
Co-operative Federation,
Rep by its Managing Director,
291/2, N.S.K.Salai,
Chennai-600 093.

..Applicant/ 4th Defendant

-Versus-

1.Mrs.Poornema (30 years)
W/o.Mr.Naveen Madhavan,
Old No.14-B, New No.4,
Venkatesan Nagar,
First Main Road,
Virugambakkam,
Chennai-600 092.

2.Ms.Aiswarya Sudakar, (25 years)
D/o.Mr.Sudhakar,
Old No.14-B, New No.4,
Venkatesan Nagar,
First Main Road,
Virugambakkam,
Chennai-600 092.

..Respondents 1 and 2/Plaintiffs

3.V.Devaki
S/o.Late N.Ravindra Manon
No.113, R.K.Lakshmana Swami Salai,
West K.K.Nagar, Chennai-78
(Erstwhile Partner of Vasu Studios)

4.V.Haridoss
 S/o.Late.N.Vasudeva Manon
 No.329-B, Second Floor,
 Jayam Flat, Alagiri Samy Salai,
 West K.K.Nagar, Chenani-78
 (Erstwhile Partner of Vasu Studios)

5.V.Ravindran
 S/o.Late N.Vasudeva Manon
 Flat No.1-A, Jayam Flat,
 Alagiri Samy Salai,
 West K.K.Nagar, Chenani-78
 (Erstwhile Partner of Vasu Studios)

..Respondents 3 to 5 Defendants 1 to 3

Application praying that this Hon'ble Court be pleased to reject the plaint as it does not disclose any cause of action, is hit by res judicata and therefore barred by law and consequentially, dismiss the suit.

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

This application is filed to reject the plaint on the ground that it does not disclose a cause of action and also that it is barred under the Limitation Act.

2. I heard the learned counsel for the applicant/4th defendant and the learned counsel for the respondents 1 and 2/plaintiffs. The learned counsel for the applicant submitted that the applicant is concerned with the prayer for a mandatory direction directing the fourth defendant to hand over the balance land of an extent of 11 cents to the plaintiffs/defendants 1 to 3. She submitted that this land

proceedings and partly under sale deed dated 04.08.1979. She further submitted that the only averments in the plaint with regard to this land are contained in Paragraph 15, wherein the plaintiffs have made the generic statement that 7051.112 sq. meters was assigned in favour of the 4th defendant and that after proper survey, this land should be handed over to plaintiffs/defendants 1 to 3. She also submitted that no particulars have been set out in the plaint and in light of the fact that both the acquisition as well as the purchase of the land took place in the year 1979, the prayer in relation thereto is barred by limitation.

3. The learned counsel for the respondent submitted, on the contrary, that these are triable issues and that the plaint is not liable to be rejected on the basis of the present application.

4. I considered the submissions of the counsel for the respective parties and examined the plaint. It is evident from the prayer paragraph that the suit is for a declaration that the plaintiffs are the legal heirs of the deceased, Mrs.V.Kamalam, and V.Ambujam and for a partition of the said property. In addition, Prayer (d) relates to a mandatory direction for handing over the balance land of an extent of 11 cents. Admittedly, the present application is concerned only with Prayer (d) in Paragraph-19. In several

judgements of the Honourable Supreme Court, it has been categorically held that a plaint cannot be rejected in part. The present application is therefore not maintainable.

5. Accordingly, this application is dismissed. However, the applicant is granted leave to file an appropriate application.

Sd./-S.K.R.J

03/02/2020

//Certified to be true copy//

Dated at Madras this the day of 2020.

JJ 12/02/2020

COURT OFFICER(O.S.)

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