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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

TUESDAY THE 24TH DAY OF AUGUST 2021

THE HON'BLE MR. JUSTICE V.PARTHIBAN

A. No.1155 of 2021
and
A.No.2351 of 2021
in
C.S. No.109 of 2021

A. No.1155 of 2021
and
C.S. No.109 of 2021

T.Prakatheeswaran,
S/o.A.Thandayutham,
No.2/263, Manapakkam Road,
Indian Bank Building, Manapakkam,
Chennai-600 125.

... Applicant/Plaintiff

-Versus-

1. K.A.Shivago,
S/o.Abraham,
Flat No.G-1, Park View Castle Apartment,
9/6, Park View Street,
Srinivasan Avenue Road,
R.A.Puram, Chennai-600 028.
2. M/s.Viswas Flats Promoters Pvt. Ltd.,
rep. by its Managing Director/Director,
Mr.K.A.Shivago,
No.18/22, 1st Floor, New Corporation Shopping Complex,
3rd Cross Street, R.A.Puram,
Chennai-600 028.

3. Mrs V.P.Asha Shivago,
W/o.K.A.Shivago,
Flat No.G-1, Park View Castle Apartment,



9/6, Park View Street,
Srinivasan Avenue Road,
R.A.Puram, Chennai-600 028.

... Respondents/Defendants

A. No.1155 of 2021

Application praying that this Hon'ble Court be pleased to direct the Respondents/defendants to furnish security within the specified time to the tune of Rs.2,09,26,936/- (Rupees Two Crores nine lakhs twenty six thousand nine hundred and thirty six only) as may be sufficient to satisfy the decree that may be passed in the above original suit on the file of this court and on his failure to furnish security this Hon'ble Court may be pleased to order that the property specified in the schedule hereunder be attached before DMC Sriperumbudur before the judgment until the satisfaction of the decree.

A.No.2351 of 2021

1. K.A.Shivago,
S/o.Abraham,
Flat No.G-1, Park View Castle Apartment,
9/6, Park View Street,
Srinivasan Avenue Road,
R.A.Puram, Chennai-600 028.
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3. Mrs.V.P.Asha Shivago,



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W/o.K.A.Shivago,
Flat No.G-1, Park View Castle Apartment,
9/6, Park View Street,
Srinivasan Avenue Road,
R.A.Puram, Chennai-600 028.

...Applicants

vs

T.Prakatheeswaran,
S/o.A.Thandayutham,
No.2/263, Manapakkam Road,
Indian Bank Building, Manapakkam,
Chennai-600 125.

..Respondent

Application praying that this Hon'ble Court be pleased to reject the plaint in C.S.No.109 of 2021 filed by the respondent with exemplary costs

These applications coming on this day before this court for hearing in the presence of Mr.R.K.Ramaiah, Advocate for the Applicant in A.No.1155 of 2021 and for the respondent in A.No.2351 of 2021 and the respondent in A.No.1155 of 2021 and for the applicant in A.No.2351 of 2021 not appearing in person or by advocate and upon reading the Judges Summons and the affidavit of K.A.Shivago, filed in A.No.2351 of 2021 and the order dated 17.03.2021 made in A.No.1155 of 2021, **it is ordered as follows:-**

That the immovable properties more fully set out in the schedule hereunder be and is hereby attached and the same do remain under attachment until the satisfaction of the decree.



2. That 2 copies of this order be transmitted to the District Munsif Court, Sriperumbudur for effecting the attachment and the said court do cause the said immovable properties to be attached through Senior Bailiff of the said Court in respect of the claim of a sum of Rs.2,09,26,936/- (Rupees Two Crores nine lakhs twenty six thousand nine hundred and thirty six only) and communicate the effect of such attachment to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the immovable properties are situated.

3. That the Registry be and is hereby directed to list the application in A.No.2351 of 2021, filed for rejection of the plaint, in the usual course.

Schedule

Flat No.F, FF1 (First Floor, Block F, Thamarai) consist of 1056 in the project named "Mapple Tree Garden" along with UDS of 560 Sq.Ft. out of schedule items 1 and 2 of the property hereunder mentioned.

Flat No.D, SF-2 (Second Floor, Block -D) consist of 1120 Sq.Ft. in the project named "Mapple Tree Garden" along with UDS of 560 Sq.Ft. out of schedule items 1 and 2 of the property hereunder mentioned:

Item No.1:

All that piece and parcel of the landed property bearing sub-divided Plot No.A, measuring about 2446 Sq.Ft., Plot No.B, measuring about 2410 Sq.Ft. Plot No.C, measuring about 2396 Sq.Ft. Plot No.D



measuring about 2396 Sq.Ft., Plot No.E, measuring about 2396 Sq.Ft. Plot No.F, measuring about 2240 Sq.Ft. all put together a total extent of 14,284 Sq.Ft. (vide sub-division planning permit No.SD/WDCN12/536/2013, dated 21.11.2013 by the Corporate Chennai) comprised in Old S.No.76/7 part, New WS.No.76/4A2 of Mugalivakkam Village, Sriperumbuthur Taluk, Kancheepuram District,

bounded on:

North by : Property in S.No.68 part

South by : canal

East by : 16 feet passage

West by : Property in 76/15 & 76/4A1

together with 4047 Sq.Ft. exclusive private passage (16 feet wide) and lying within the Registration District of Chennai South Sub-Registration District of Kundrathur.

Item No.2:

All that piece and parcel of the landed property bearing Plot No.3, Part, Arumugam Nagar: Presently 20 feet wide private road (as per sub-division plan) leading from existing 20 feet wide road to item No.1 herein above mentioned comprised in S.No.76/7B3 of Mugalivakkam Village, Sriperumbuthur Taluk, Kancheepouram District, measuring about 1064 Sq.Ft.

Bounded on:

North by : Plot No.4



South by : Remaining portion of Plot No.3

East by : 20 feet road,

West by : 16 feet wide private passage described as item No.1 herein above

and lying within the Registration District of Chennai South Sub-Registration District of Kandrathur.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
24th DAY OF AUGUST 2021.

Sd./-

ASSISTANT REGISTRAR (Comm.Cases)

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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08.10.2021

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A. No.1155 of 2021
and
A.No.2351 of 2021
in
C.S. No.109 of 2021

ORDER

DATED : 24.08.2021

THE HON'BLE MR. JUSTICE
V.PARTHIBAN

FOR APPROVAL: 11.10.2021

APPROVED ON: 21.10.2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.08.2021

Coram:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

A.No.1155 of 2021 and A.No.2351 of 2021

in

C.S.No.109 of 2021

T.Prakatheeswaran, S/o A.Thandayutham

.. Applicant in A.No.1155 of 2021

.. Plaintiff in C.S.No.109 of 2021

.. Respondent in A.No.2351 of 2021

Vs.

1. K.A.Shivago, S/o Abraham

2. M/s.Viswas Flats Promoters Pvt. Ltd.,
represented by its Managing Director/Director,
Mr.K.A.Shivago

3. Mrs.V.P.Asha Shivago, W/o K.A.Shivago

.. Respondents in A.No.1155 of 2021

.. Defendants in C.S.No.109 of 2021

. Applicants in A.No.2351 of 2021

Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court, read with Order XXVII Rule 5 of the Civil Procedure Code (CPC) and A.No.1155 of 2021 in C.S.No.109 of 2021, praying to direct the respondents/defendants to furnish security within the specified time to the tune of Rs.2,09,26,936/- (Rupees two crores nine lakhs twenty six thousand nine hundred and thirty six only) as may sufficient to satisfy the decree that may be passed in the above original suit on the file of this Court and on his failure to furnish security before this Honourable Court may be pleased to order that the property specified in the schedule



hereunder, be attached before the District Munsif Court, Sriperumbathur, before the judgment, until the satisfaction of the decree.

Schedule

Flat No.F, FF1 (First Floor, Block F, Thamarai) consist of 1056 in the project named "Mapple Tree Garden" along with UDS of 560 Sq.Ft. out of schedule items 1 and 2 of the property hereunder mentioned.

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together with 4047 Sq.Ft. exclusive private passage (16 feet wide) and lying within the Registration District of Chennai South Sub-Registration District



of Kundrathur.

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Item No.2:

All that piece and parcel of the landed property bearing Plot No.3, Part, Arumugam Nagar: Presently 20 feet wide private road (as per sub-division plan) leading from existing 20 feet wide road to item No.1 herein above mentioned comprised in S.No.76/7B3 of Mugalivakkam Village, Sriperumbuthur Taluk, Kancheepouram District, measuring about 1064 Sq.Ft.

Bounded on:

North by : Plot No.4

South by : Remaining portion of Plot No.3

East by : 20 feet road,

West by : 16 feet wide private passage described as item No.1 herein above and lying within the Registration District of Chennai South Sub-Registration District of Kundrathur.

Judge's Summons issued under Order XIV Rule 8 of the Original Side Rules of this Court read with Order VII Rule 11(D) of the Civil Procedure Code (CPC) and Application No.2351 of 2021 filed praying to reject the plaint in C.S.No.109 of 2021 filed by the respondent with exemplary costs.

Plaint filed under Order 7 Rule 1 of CPC read with Order 7 of the Original Side Rules of this Court and suit numbered as C.S.No.109 of 2021 praying to pass a judgment and decree:

(a) to direct the defendants to pay Rs.2,09,26,936/- (Rupees two crores nine lakh twenty six thousand nine hundred and thirty six only) with



subsequent interest @ 18% p.a. on the principal amount of Rs.1,25,07,600/- (Rupees one crore twenty five lakhs seven thousand and six hundred only) from the date of plaint (08.02.2021) to till the date of making the payment.

(b) to direct the defendants to pay costs of the suit

For applicant in A.No.1155 of 2021 : Mr.R.K.Ramaiah

For respondents in A.No.1155 of 2021: No appearance

ORDER

This Court, by order dated 17.03.2021 in Application No.1155 of 2021 in C.S.No.109 of 2021, directed the second defendant to furnish security to the suit amount of Rs.2,09,26,936/- on or before 15.04.2021.

2. By order dated 06.08.2021, this Court provided last opportunity to the respondents to comply with the said order dated 17.03.2021 and directed the matter to be listed today (24.08.2021).

3. Even today, this Court does not find any appearance on the side of the respondents. In view of the fact that the furnishing of security as ordered by this Court on 17.03.2021, has still not been complied with, and there is also no representation for the respondents even today to inform this Court as to the compliance of the order of this Court, dated 17.03.2021, this Court directs that the property specified in the schedule to the application in

A.No.1155 of 2021, shall be attached before the District Munsif Court, Sriperumbudur, before the Judgment, until the satisfaction of the decree.



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4. Application No.1155 of 2021 is ordered in the above terms.

5. Registry is directed list the application in A.No.2351 of 2021, filed for rejection of the plaint, in the usual course.

Sd./-V.P.N.J

24.08.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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