

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Civil Suit No.177 of 2020
A.No.191 of 2021 and A.No.2835 of 2020
and O.A.Nos.290 and 291 of 2020

P.Sakilan,
S/o.Padmanabhan,
No.123, TNHB Colony,
Tondiyarpet, Chennai - 600 081.

...

Plaintiff

versus

1.Phoenix ARC Private Limited,
Rep. by its Managing Director,
5th Floor, Dani Corporate Park,
No.158, CST Road, Kalina,
Santacruz (E), Mumbai - 400 098.

2.Harsh Magia,
Phoenix ARC Private Limited,
5th Floor, Dani Corporate Park,
No.158, CST Road, Kalina,
Santacruz (E), Mumbai - 400 098.

3.The State Bank of India,
Represented by its Managing Director,
Corporate Center,
Madame Cama Road,
State Bank Bhavan, Nariman Point,
Mumbai - 400 021, Maharashtra.

...

Defendants

Prayer: Plaintiff filed under Order VII Rule 1 of C.P.C. read with Order IV Rule 1 of High Court Original Side Rules, 1956, praying for the following judgment and decree as against the defendants 1 to 3;

a) To direct the defendants 1 to 3 jointly and severally to pay to the plaintiff a sum of Rs.75,50,000/- (Rupees Seventy Five Lakhs Fifty Thousand only) together with interest at rate of 12% per annum from date of plaint till realisation;

b) To direct the defendants 1 to 3 to jointly and severally pay to the plaintiff a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) as damages together with interest at rate of 12% per annum from date of decree till realisation;

c) To declare that the agreement to sell pertaining to the suit schedule property between the plaintiff and 1st defendant pursuant to the 1st defendant's letter dated 27.02.2020 in Ref.No.PHOENIX/RESL/3816/2019-20 is *ab initio* void, nullity and not binding on the plaintiff; and

d) To direct the defendants to pay the costs of the suit.

For Plaintiffs : Mr.Richardson Wilson
For Defendant No.1 : Mr.E.Omprakash
Senior Counsel
for M/s.Abitha Banu
For Defendant No.2 : Mr.A.Damodaran
For Defendant No.3 : Mr.M.L.Ganesh

JUDGMENT

The present suit has been filed seeking the relief of direction, directing the defendants 1 to 3 jointly and severally to pay a sum of Rs.75,50,000/- [Rupees Seventy Five Lakhs Fifty Thousand Only] to the plaintiff together with interest @ Rs.12% per annum from the date of plaint till realisation. Further, prayed for the relief of direction, directing the defendants 1 to 3 to pay a sum of Rs.25,00,000/- [Rupees Twenty Five Lakhs only] as damages together with interest @ Rs.12% per annum from the date of decree till realisation and also for the relief of declaration, declaring the letter dated 27.02.2020 issued by the first defendant in Ref.No.PHOENIX/RESL/3816/2019-20 is *ab initio* void, nullity and not binding on the plaintiff.

2. When the suit is kept pending, the defendants have filed an application in A.No.2835 of 2020 under Order VII Rule 11(d) C.P.C. to reject the plaint and the same has been pending for disposal. Only in the said circumstances, the plaintiff has filed the present application in

A.No.191 of 2021 seeking the relief to permit him to withdraw the suit, with liberty to approach the appropriate forum.

3. The learned counsels appearing for the defendants did not raise any objection for the reliefs sought for by the plaintiff.

4. In view of the same, the plaintiff is permitted to withdraw the suit, with liberty to approach the appropriate forum to sue on the same cause of action against the same defendants. Accordingly, this Civil Suit is dismissed as withdrawn. Consequently, connected Applications are closed. However, there is no order as to costs.

27.01.2021

Speaking order / Non-speaking order

Index : Yes / No

Internet : Yes

sri

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R.PONGIAPPAN, J.

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