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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 4TH DAY OF FEBRUARY, 2021

THE HON'BLE MR. JUSTICE R.PONGIAPPAN

TR.C.S NO.712 OF 2016

1.V.N.Kumara Guru,
S/o Late. V.N.Sama Rao,

2.Mrs.Poornima Rao,
W/o Mr.V.N.Kumara Guru Both residing at
Old No.24A, New No.15, Thilak St.,
T.Nagar, Chennai 600 017.

... Plaintiffs/Applicants

-Vs-

1.M.S.Chandramouli
S/o Late M.R.Srinivasan

2.Sabarish Chandramouli
S/o M.S.Chandaramouli

3.Geetha
W/o M.S.Chandramouli

4.C.Archana
D/o M.S.Chanramouli
All the defendants are residing at
Old No.24, New No.13, 1st Floor,
Thilak Street, T.Nagar, Chennai 600 017.

...Defendants/Respondents.

Civil Suit praying that this Hon'ble Court be pleased to pass a

Judgement and decree:

<https://hcservices.ecourts.gov.in/hcservices/> i) for permanent injunction restraining the defendants, their

agents, men or any one claiming through them from disturbing or interfering



with the plaintiffs use and enjoyment of the common passage on schedule 'C' property.

ii) directing the defendants to pay the cost of this suit.

This transfer suit alongwith C.S.No.38 of 2016 and O.A.No.49 of 2016 coming on this day before this court for hearing in the presence of Mr.P.Dinesh Kumar Advocate for the plaintiffs herein and Mr.Praveen S.Kumar for M/s.Rank Associates, Advocates for the defendants herein and upon reading the plaint filed herein, **it is ordered:-**

That the suit in Tr.C.S.No.712 of 2016, be and is hereby dismissed as infructuous.

WITNESS THE HONBLE MR.JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID THIS THE
4TH DAY OF FEBRUARY 2021.

Sd/-

ASSISTANT REGISTRAR (O.S I)

// Certified to be true copy//

Dated at Madras this day of 2021.

Court Officer(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



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02.03.2021

T.R.C.S. No.712 of 2016

ORDER:

DATED: 04/02/2021

THE HON'BLE MR.JUSTICE
R.PONGIAPPAN

FOR APPROVAL: 17/08/2021
07/09/2021

APPROVED ON: 07/09/2021



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **04.02.2021**

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THE HON'BLE MR.JUSTICE R.PONGIAPPAN

C.S.Nos.38 and 712 of 2016

and

O.A.No.49 of 2016

C.S.No.38 of 2016

1. Mrs.Geetha Chandramouli
2. Ms.C.Archana
3. Mr.Sabarish, rep. By Power Agent
Mr.M.S.Chandramouli
(amended as per order dated 20.01.2021
in A.No.118 of 2021)

... Plaintiffs

Vs

1. V.N.Kumara Guru
2. Mrs.Poornima Rao
3. Mrs.Sulochana Swaminathan
4. Mr.Arvind Swaminathan
5. Kotak Mahindra Bank Ltd.,
First Floor, Ceebros Centre,
No.39, Montieth Road,
Egmore, Chennai – 600 039.

... Defendants

[Defendants D3 to D5 were given up as per order dated 14.12.2020 vide memo in CS No.38 of 2016)

Civil Suit filed under Order IV Rule 1 of O. S. Rules read with Order VII Rule 1 of CPC, for the following judgment and decree, against the defendants 1 and 2 :

[i] Declaring that the Sale Deed dated 29.4.2013, bearing

Doc.No.1049 of 2013, executed by the 3rd Defendant (i) Mrs.Sulochana Swaminathan and 4th Defendant (ii) Mr.Arvind Swaminathan in favour of



the Defendants 1 and 2 herein, to the extent of 424.5 sq.ft. in the common passage, described in the Schedule 'B' of the said Sale Deed as void and not binding on the Plaintiffs;

[ii] For a Mandatory Injunction directing the Defendants 1 and 2 to demolish and remove the encroachments and constructions put up in the the property bearing New Door No.13, Old No.24, Tilak Street, T.Nagar, Chennai – 600 017, comprised in Survey Nos.95/2 and 99/Part, T.S.No.6838, measuring about 5085 sq.ft., described in the schedule hereunder, hindering the free use by the Plaintiffs;

[iii] For a Permanent Injunction restraining the Defendants 1 and 2, their Men, Agents, Servants and anyone acting under them from putting up any constructions in the eastern edge of the property bearing New Door No.13, Old No.24, Tilak Street, T.Nagar, Chennai – 600 17, comprised in Survey Nos.95/2 and 99/Part, T.S.No.6838, measuring about 5085 sq.ft., described in the schedule hereunder, by parking their cars or other vehicles in the said area hindering the free use by the Plaintiffs; and

(iv) For a Decree of Partition dividing the property bearing New Door No.13, Old No.24, Tilak Street, T.Nagar, Chennai – 600 17, comprised in Survey Nos.95/2 and 99/Part, T.S.No.6838, measuring about 5085 sq.ft., described in the schedule hereunder and allotting 50% share to the Plaintiffs with a right to use the first floor portion of the building and handover possession of the same.

For Plaintiffs : Mr.Praveen S.Kumar
for M/s.Rank Associates
For Defendants : Mr.P.Dinesh Kumar (D1 & D2)

**C.S.No.712 of 2016**

1. V.N.Kumara Guru

2. Mrs.Poornima Rao

... Plaintiffs

Vs

1. M.S.Chandramouli

2. Sabarish Chandramouli

3. Geetha

4. C.Archana

... Defendants

Civil Suit filed under Order VII Rule 1 of CPC, for the following judgment and decree :

[i] for permanent injunction restraining the defendants, their agents, men or any one claiming through them from disturbing or interfering with the plaintiffs use and enjoyment of the common passage on schedule 'C' property; and

[ii] directing the defendants to pay the cost of this suit.

For Plaintiffs : Mr.P.Dinesh Kumar

For Defendants : Mr.Praveen S.Kumar
for M/s.Rank Associates.

COMMON JUDGMENT

Today, when the suits came up for hearing, the plaintiffs 1 to 3 and defendants 1 and 2 in C.S.No.38 of 2016, have appeared in the Video Conferencing along with their respective learned counsel.

2. The Joint Memo of Compromise, filed by the parties, was read out to the parties and thereafter, all the parties have admitted the contents of the Joint Memo of Compromise, as found correct.

3. Hence, the compromise entered into between the Plaintiffs and

Defendants, vide Joint Memo of Compromise along with the proposed plan



for partition, is recorded. The suit in C.S.No.38 of 2016, is decreed in terms of the Joint Memo of Compromise. The Joint Memo of Compromise, along with the proposed plan for partition, filed by either parties, shall form part of the decree. Consequently, the suit in C.S.No.712 of 2016, which is the connected suit filed for the relief of injunction, is dismissed as infructuous. Original Application viz., O.A.No.49 of 2016, is closed.

Sd./-R.P.A.J
04.02.2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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