



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
AND
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU
O.S.A.No.309 of 2019
and
C.M.P.Nos.25309 & 25314 of 2019

1.Dr.Rajesh Mithalal
2.Mrs.R.Vanitha

...Appellants/Plaintiff

Vs

M.Ashok Kumar

...Respondent/Defendant

PRAYER : Original Side Appeal filed under Order XXXVI Rule 1 of the Original Side Rules read with Clause XV of the Letters Patent Act, praying to set aside the Order and Decretal Order dated 25.07.2019 in O.A.No.778 of 2019 in C.S.No.78 of 2019 on the file of this Court and allow the Application filed by the Plaintiffs.

Application praying that this Honble Court be pleased to order attachment before judgment of the respondent/defendant's properties viz., his undivided 50% share in property bearing no.27, Ritherdon road, Vepery, Chennai 600074, property situate in Door no.1(old No.49) Nattu Pillayar Koil Street, Chennai 600001 and also the property situate at Old no.111, New no.115, Vellala Street, Purasawalkam, Chennai 84

C.S.No.78 of 20189

The Plaintiffs therefore prays for a decree and judgment in their favour seeking the following prayers:-

a.Directing the defendant to render proper accounts for the collection of the rents from tenants in occupation of the 1st plaintiff's erstwhile portion of property bearing no.1(old no.49), Nattu Pillayar Koil Street, Sowcarpet, Chennai 600001 for the period from 28.06.2001 being the date of execution of the power of attorney till 24.01.2017, the date of cancellation of the power of attorney and thereafter directing the defendant to remit such ascertained amount to the 1st plaintiff;



b.Directing the defendant to refund to the plaintiffs a total sum of Rs.6,50,33,655/- (Rupees Six Crores fifty lakhs thirty three thousand six hundred and fifty five only) earlier admittedly withdrawn by him from both of the plaintiff's N.R.I, bank accounts as their agent under the suit general power of attorney dated 28.06.2001 registered as Document no.202 of 2001 together with future interest from the date of the plaint till the date of realization @ 18%

c.Direct the 1st Defendant to pay the cost of the suit;

d.For such further or other reliefs as may be deemed fit and proper in the circumstance of the case;

For Appellants : Mr.A.K.Raghavulu.
For Respondent : Mr.P.Ramesh Kumar.

J U D G M E N T
(Judgment of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conference".

2.This Appeal has been filed against the dismissal of the Application filed for attachment before Judgment of the Respondent's properties.

3.The Appellants filed a Suit for direction, directing the Defendant to render proper accounts for the collection of the rents from tenants in occupation of the First Appellant's / Plaintiff's erstwhile portion of property and for remission of such ascertained amount to the First Plaintiff and for refund of a sum of Rs.6,50,33,655/- (Rupees Six Crore Fifty Lakh Thirty Three Thousand Six Hundred and Fifty Five only) which is said to have been withdrawn by the Respondent from the Appellants' N.R.I. bank accounts as their agent. In the said Suit, an Application for attachment before Judgment was sought and the said Application was dismissed holding that there was an overall settlement of the issues raised by the parties in the Suit as evident from five settlement deeds executed between 10.05.2018 and 17.05.2018. Paragraph Nos.5 and 6 of the said order reads as follows:



5. With the above observations, this Original Side Appeal is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar

ay/Maya

To

The Sub Assistant Registrar,
Original Side Section,
High Court of Madras,
Chennai.

+1cc to Mr.A.K.Raghavalu , Advocate, SR.No.11765

O.S.A.No.309 of 2019
and
C.M.P.Nos.25309 & 25314 of 2019

KJ (CO)
KKV/28/07/2021