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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CONTEMPT APPEAL NOS.2 AND 3 OF 2020

Aruna Ramani
Director of M/s.Sabari Realtors Pvt. Ltd.,
Office at New No.30, Old No.28,
6th Main Road, R.A.Puram,
Chennai - 600 028.

.. Appellant in Cont.A.No.2/2020

K.R.V.Ramani
Director of M/s.Sabari Realtors Pvt. Ltd.,
Office at New No.30, Old No.28,
6th Main Road, R.A.Puram,
Chennai - 600 028.

.. Appellant in Cont.A.No.3/2020

Vs.

1. M/s.Stephan Constructions,
represented by its Partner
Mr.V.Stephen,
No.119/74, Velachery Road,
Little Mount, Saidapet,
Chennai - 600 015.

.. R1 in both appeals

K.R.V.Ramani
Director of M/s.Sabari Realtors Pvt. Ltd.,
Office at New No.30, Old No.28,
6th Main Road, R.A.Puram,
Chennai - 600 028.

.. R2 in Cont.A.No.2/2020

Aruna Ramani
Director of M/s.Sabari Realtors Pvt. Ltd.,
Office at New No.30, Old No.28,
6th Main Road, R.A.Puram,
Chennai - 600 028.

.. R2 in Cont.A.No.3/2020



Contempt Appeals filed u/s.19 of the Contempt of Courts Act, 1971, praying to set aside the order passed in Contempt Petition No.524 of 2019 in C.S.(Comm.Div) No.641 of 2018 dated 17.02.2020.

Prayer in Contempt Petition No.524 of 2019:-

Contempt Petition filed under Section 11 of the Contempt of Courts Act 1971, praying to punish the respondents herein for the wilful and deliberate disobedience of the order dated 29.01.2019 in C.S.No.641 of 2018.

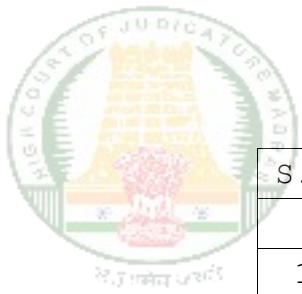
Prayer in C.S.No.641 of 2018 (Comm.Div):-

Civil Suit filed praying this Honourable Court,

- a) For a Judgment and Decree directing the Defendant herein to pay to the Plaintiff a sum of Rs.4,81,37,669/- to the plaintiff along with interest at the rate of 24% per annum from the date of when the amounts became due till the date of repayment.
- b) For a permanent injunction restraining the defendant, including their men, agents, servants or anyone claiming under or through them including the third parties claiming under or through them from any manner removing, encumbering, alienating the materials, movable properties of the Plaintiff morefully described in the Schedule mentioned hereunder.
- c) Direct the first defendant to pay the costs of the suit to the plaintiff; and
- d) pass such other or further orders as this Hon'ble Court may deem fit in the facts and circumstances of the present case and the render justice.

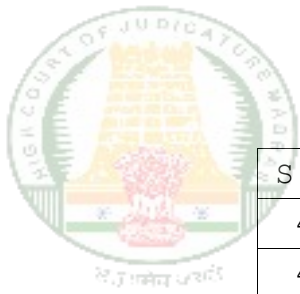
SCHEDULE OF MOVABLE PROPERTY

S.No.	MATERIAL NAME	UNITE	QUANTITY
1.	Cement	Bags	339
2.	Solid Block		
3.	8" Solid Block	NOS	993
4.	4" Solid Block	NOS	236
5.	1" Solid Block	NOS	54
6.	River Sand	CFT	5000
7.	Coarse Aggregate		
8.	20 MM	CFT	200



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S.No.	MATERIAL NAME	UNITE	QUANTITY
9.	12 MM	CFT	80
10.	Ply Board		
11.	1'6" Side Bord	NOS	40
12.	Casurina Post	NOS	174
13.	Runner		
14.	4'*3'	NOS	96
15.	4'*1.5"	NOS	58
16.	Platform PLY-8	NOS	120
17.	GI Sheet	NOS	300
18.	Safety Belt	NOS	20
19.	Rope 400' Role	NOS	1
20.	Curing Pipe	Role	13
21.	Electrical Motor with Pipe	NOS	1
22.	Electrical Fan	NOS	25
23.	Electrical Vibrator	NOS	1
24.	Electrical Needle	NOS	1
25.	Petrol Vibrator	NOS	1
26.	Needle	NOS	3
27.	AIR Pump	NOS	1
28.	AG4 Cutting Machine	NOS	3
29.	AG14 Cutting Machine	NOS	1
30.	Breakar Big	NOS	1
31.	Hand Breakar	NOS	2
32.	Cable 40 Feet	NOS	4
33.	Right Angle-Steel	NOS	2
34.	Right Angle-Wood	NOS	4
35.	Bugket	NOS	40
36.	Bond	NOS	70
37.	Bond Box	NOS	60
38.	Wheel Bar	NOS	15
39.	Cover Block 15 MM	NOS	200
40.	Cover Block 40 MM	NOS	250



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S.No.	MATERIAL NAME	UNITE	QUANTITY
41.	Broom Stick	NOS	35
42.	Chicken Mess-2'	ROLE	210
43.	Drum	NOS	30
44.	Measurement	NOS	50
45.	Hessian Cloth	ROLE	12
46.	Measurement Box	NOS	4
47.	Hoist Track	NOS	2
48.	Tread-Srakaire	ROLE	20
49.	Diesel Engine - Hoist	NOS	2
50.	HOE	NOS	20
51.	Crow Bar	NOS	6
52.	SQURE TUBE-MATTA PALAVA		
53.	6'	NOS	30
54.	4'	NOS	22
55.	3'	NOS	20
56.	2'	NOS	20

For Appellants : Mr.C.Mani Shankar, Senior Counsel
[in both appeals] for Mr.M.Sricharan Rangarajan

For Respondents : Mr.Nithyaesh Natraj [for R1]
[in both appeals]

COMMON JUDGMENT

[Made by P.N.PRAKASH, J]

These contempt appeals have been filed challenging the order passed in Contempt Petition No.524 of 2019 in C.S.(Comm.Div) No.641 of 2018 dated 17.02.2020.

2. The minimum facts that are required for deciding these contempt appeals are as under:

2.1. One M/s.Sabari Realtors Pvt. Ltd. [hereinafter would be referred to as "Sabari" for the sake of brevity] had engaged the



services of M/s.Stephan Constructions [hereinafter would be referred to as "Stephan" for the sake of brevity] for certain construction activities in connection with which, a dispute arose between the two, resulting in Stephan filing a suit in C.S.(Comm) No.641 of 2018 in the Original Side of this Court against Sabari claiming a sum of Rs.4,81,37,669/-. Along with the suit, Stephan also filed an application in O.A.No.862 of 2018 seeking certain interim reliefs. Certain interim orders appear to have been passed by various learned single Judges in the applications filed by Stephan, which we are not immediately concerned with. Suffice to say that during the course of the hearing of the interim applications, an undertaking was given in the Court to the effect that three fully built apartments would be given to Stephan as security for the suit claim. Accordingly, one A.Venkataraman, authorised representative of Sabari filed an affidavit dated 06.02.2019 undertaking not to alienate three flats described in the schedule to the affidavit in Ekambara and Margosa venture. Alleging that those three flats were not fully constructed and two of the three flats do not even belong to Sabari, Stephan initiated contempt proceedings in Contempt Petition No.524 of 2019 in which, Ramani and his wife Aruna Ramani were shown as respondents/alleged contemnors on the ground that they are the Directors of Sabari.

2.2. On notice, Ramani and Aruna Ramani entered appearance in the contempt proceedings and sought time to appear in person. The said contempt petition came up before a learned single Judge on 04.04.2019, who directed the contempt petition to be heard along with the main suit in C.S.No.641 of 2018. Therefore, Contempt Petition No.524 of 2019 got tagged with C.S.No.641 of 2018.

2.3. It appears that in the applications in C.S.No.641 of 2018, a learned single Judge has passed certain orders on 20.08.2019. However, no orders were passed in Contempt Petition No.524 of 2019 by the learned single Judge. Subsequently, the said contempt petition came up before another learned single Judge, who, by order dated 22.10.2019, directed the "respondent/defendant" to appear in person before the Court on 11.11.2019. The order of the learned single Judge dated 11.11.2019 states that "the respondent is present before this Court pursuant to the order of this Court dated 22.10.2019."

2.4. On instructions, Mr.C.Mani Shankar, learned Senior Counsel appearing for the appellants, submitted that, Aruna Ramani was present in the Court whereas Mr.Nithyaesh Natraj, learned counsel appearing for Stephan, submitted that it was the representative of Sabari, who was present and not Aruna Ramani. However, the learned single Judge adjourned the case to



25.11.2019 directing the parties to file their counter. On 06.12.2019, the matter came up before yet another learned single Judge, who went through the records and found that change of vakalath has been filed by Ramani and Aruna Ramani, but there were no representation for them. Therefore, the learned single Judge issued statutory notice and directed Ramani and Aruna Ramani to appear on 08.01.2020 and show cause as to why action should not be taken against them under the Contempt of Courts Act, 1971. In the meanwhile, it appears that A.Venkataraman, representative of Sabari, filed an affidavit in the contempt proceedings. On 08.01.2020, the learned counsel requested some more time for the appearance of Ramani and Aruna Ramani, which was accepted by the learned single Judge and the matter was adjourned to 15.02.2020. On 15.02.2020, the case was not listed, instead, the case was listed on 17.02.2020 before the same Judge. Neither Ramani nor Aruna Ramani was present before the learned single Judge, however, their counsel submitted certain documents to show that Ramani has been detained in the UAE on 22.01.2020 and prayed for some more time. The learned single Judge refused to accept the reasons given by the learned counsel appearing for Ramani and Aruna Ramani and issued a non-bailable warrant to secure them, aggrieved by which, the present appeals have been filed.

3. Heard Mr.C.Mani Shankar, learned Senior Counsel appearing for Ramani and Aruna (appellants) and Mr.Nithyaesh Natraj, learned counsel appearing for Stephan (respondent).

4. These contempt appeals came up before a Division Bench on 10.03.2020 and a detailed order was passed staying the order of the learned single Judge.

5. At the outset, Mr.Nithyaesh Natraj, learned counsel, submitted that the present appeals are not maintainable since the learned single Judge has issued only a non-bailable warrant, which is merely an interlocutory order and the alleged contemnors can surrender before the learned single Judge and pray for recall of the order. In support of this submission, he placed reliance on the judgment of the Supreme Court in Midnapore Peoples' Coop. Bank Ltd. and others Vs. Chunilal Nanda and others¹.

6. We are afraid that we cannot countenance the above submission because, on facts, we find that satisfactory materials have been produced before us to show that Ramani was detained in the UAE by the authorities on 22.01.2020. In Tamilnad Mercantile Bank Shareholders Welfare Association Vs.

1 (2006) 5 SCC 399



S.C.Sekar and others², the Supreme Court has adverted to Midnapore's case (cited supra) and has held that, where an order adverse to the interest of the alleged contemnor has been passed by a Court, an appeal could be maintained.

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7. In this case, Ramani and Aruna Ramani are not defendants in the suit, but, were made as respondents only in the contempt petition. They placed materials before the learned single Judge to the effect that Ramani has been detained by the authorities in the UAE on 22.01.2020, with which, of course, the learned single Judge was not convinced. However, we have no reason to doubt the same. Aruna appears to have gone to the UAE as her husband was placed under detention. Issuance of a non-bailable warrant is undoubtedly an order, which is adverse to the interest of the respondents and following the law laid down in Tamilnad Mercantile Bank's case [cited supra], we hold that the present contempt appeals are maintainable.

8. We are satisfied with the reason given by Ramani and Aruna Ramani for their failure to appear before the learned single Judge on 17.02.2020, in the facts and circumstances of the present case. To show his bona fides, Ramani is present before this Court today.

9. Accordingly, these contempt appeals are allowed and the order passed in Contempt Petition No.524 of 2019 in C.S. (Comm.Div) No.641 of 2018 dated 17.02.2020 is set aside.

10. Ramani and Aruna are directed to appear before the learned single Judge, who holds the subject portfolio on 13.06.2022 at 10.30 a.m. If the matter is not listed before the Court on that day, they are required to appear before the Assistant Registrar (Original Side) and record their presence.

We make it clear that we have not gone into the merits of the contempt petition and that we have confined ourselves only on the desirability or otherwise of the issuance of a non-bailable warrant against the appellants herein.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

gm



To

The Assistant Registrar,
Original Side,
High Court, Madras.

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Copy To

1. The Sub Assistant Registrar,
Original Side,
High Court, Madras.
2. The Section Officer,
Contempt Section,
High Court, Madras.

Contempt Appeal Nos.2 and 3 of 2020

GMR(CO)
RLP(17/05/2022)