

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 7TH DAY OF JULY 2022

THE HON'BLE MR. JUSTICE A.A.NAKKIRAN

A.No.2001 of 2022

in

C.S.No.119 of 2017

M.Senthil Kumar,  
S/o.G.Mani,  
No.304, T.V.K.Nagar,  
Perambur, Chennai - 600 011.                      ... Applicant / Plaintiff

-Versus-

- 1) Mr.V.Loganathan,  
S/o. Late Velusamy
- 2) Mrs.Hemamalini,  
W/o.V.Loganathan,
- 3) Mr.V.L.Adhitiya Kaarthikheyan,  
S/o.V.Loganathan,

All residing at 69, 1<sup>st</sup> Floor,  
Kamaraj Street, Sri Venkatesa Nagar,  
Kolathur, Chennai - 600 099.                      ...Respondents / Defendants

Application praying that this Hon'ble Court be pleased to permit the applicant to file the application Under Order XII Rule 6 of C.P.C.seeking decree and judgement on admission in C.S.No.119 of 2017.

This Application coming on this day before this court for hearing the court made the following order:

This Application has been filed seeking to issue directions to the defendants to pay a sum of Rs.75,87,710/- to the applicant/plaintiff or the amount to be calculated on the date of passing of the decree and judgment by this Court.

2. The suit has been filed seeking for a specific performance of the agreement of sale dated 25.11.2016, in which the plaintiff seeks to direct the defendants 1 to 3 to execute the sale deed in his favour, by receiving the balance sale consideration of Rs.67,000/-.

3. The learned counsel appearing for the applicant/plaintiff would submit that the suit is filed for specific performance and he invited the attention of the Court to the averments made in Para 29 of the Written Statement filed by the 1<sup>st</sup> defendant in which the first defendant admitted that he is ready and willing to pay the amount. The para 29 of the Written Statement is extracted hereunder:-

“29. The Defendant is always ready and willing to return the amount of Rs.50,33,000/- together with reasonable rate of interest and preferably 12% per annum, to the said Karthikeyan as the said Karthikeyan has remitted the amount

to M/s Cholamandalam Investment Finance Company Ltd., and to the Lessee D. Banumathi, should the said Karthikeyan or G. Palani or the Plaintiff pay this Defendant the sum of Rs.20,000/- per month, which they have been receiving from the tenant in respect of the suit property on and from 03.12.2016 till date of payment, as admittedly possession was taken from the said tenant D.Banumathi on 03.12.2016.”

4. The learned counsel for the plaintiff would further submit that admittedly, as per counter, the defendant had admitted for paying the amount to Karthikeyan and not to the applicant/plaintiff, for which, the applicant/plaintiff has stated no objection in paying that amount to the said Karthikeyan.

5. For better understanding, Order XII Rule 6 of Civil Procedure Code is extracted here under :-

**6. Judgment on admissions.** (1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the Court may at any stage of the suit, either on the application of any party or of its own motion and without waiting for the determination of any other question between the parties, make such order or give such judgment as it may think fit, having regard to

such admissions.

(2) Whenever a judgment is pronounced under sub-rule (1) a decree shall be drawn upon in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.

6. The learned counsel for the applicant/plaintiff has placed his reliance on the following judgments :-

1) **Uttam Singh Dugal & Co.Ltd vs. Unied Bank of India and others** reported in **(2000) 7 SCC 120**

“ ....

As to the object of the Order XII Rule 6, we need not say anything more than what the legislature itself has said when the said provision came to be amended. In the objects and reasons set out while amending the said rule, it is stated that where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled . We should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment. Where other party has made a plain admission entitling the former to succeed, it should apply and also wherever there is a clear admission of facts in the face of which, it is impossible for the party making such admission

to succeed.”

2) In **Charanjit Lal Mehra & Others vs Smt.Kamal Saroj Mahaja & Another**, reported in **AIR (2005) SCC 2765**,

“ .....

In the Objects and Reasons set out while amending Rule 6 of Order 12 CPC it is stated that “where a claim is admitted, the court has jurisdiction to enter a judgment for the plaintiff and to pass a decree on admitted claim. The object of the Rule is to enable the party to obtain a speedy judgment at least to the extent of the relief to which according to the admission of the defendant, the plaintiff is entitled. “The Supreme Court should not unduly narrow down the meaning of this Rule as the object is to enable a party to obtain speedy judgment.”

3) In **Ramjas Foundation & others vs. Union of India & others** reported in **(2010) 14 SCC 38**

“14. The principle that a person who does not come to the Court with clean hands is not entitled to be heard on the merits of his grievance and, in any case, such person is not entitled to any relief is applicable not only to the petitions filed under Articles 32, 226 and 136 of the Constitution but also to the cases instituted in others courts and judicial forums. The object underlying the principle is that every Court is not only entitled but is duty bound to protect itself from unscrupulous litigants who do not have any respect for truth and who try to pollute the stream of justice by resorting

to falsehood or by making misstatement or by suppressing facts which have bearing on adjudication of the issue(s) arising in the case.”

7. The learned counsel appearing for the respondents/defendants by filing counter would submit that the main suit is being listed before the learned Master for recording of evidence. Proof affidavit has been filed by the plaintiff and the examination of witnesses has been also commenced. At this stage, the applicant/plaintiff has come out with the application only with an intention to drag on the proceedings further.

8. In this case, the issues were framed by this Court as early as on 14.12.2020 and directed to list the matter before the Master for production of documents and for examination. Pursuant to which, the plaintiff has filed the proof affidavit along with the list of documents, during the pendency of such proceedings, the applicant/plaintiff had filed the present application for the prayer stated supra.

9. In view of the above, this Court is of the view that with regard to payment, the respondents/defendants have not whispered anything in the written statements that defendants are ready to pay the amount to the applicant/plaintiff. In this case, the said Karthikeyan is not a party to the suit.

10. Considering the facts and circumstances that the trial has already been commenced, the chief examination of PW1 is completed and the trial is posted for cross examination of PW1, all the issues has to be decided only after completion of trial and the same cannot be decided at this stage. Hence, this Court is not inclined to entertain this application at this stage.

11. Accordingly, this Application stands dismissed.

Sd./-AANJ

07/07/2022

//Certified to be true copy//

Dated at Madras this the                      day of                      2022.

COURT OFFICER(O.S.)

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EVK 12/07/2022