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A.No.2686 of 2022 in C.S.No.574 of 2010

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G.CHANDRASEKHARAN, J.

A.No.2686 of 2022 in C.S.No.574 of 2010 is filed to permit the plaintiff/petitioner herein to withdraw the sum of Rs.98,15,000/- (Rupees Ninety Eight Lakhs Fifteen Thousand only) deposited by the first respondent herein in the above suit.

2.It is submitted by the learned counsel for the applicant that the first respondent has deposited a sum of Rs.98,15,000/- (Rupees Ninety Eight Lakhs Fifteen Thousand only) in the Court, which amount is due to the applicant. Therefore, this application is filed.

3.The learned counsel for the first respondent brought to the notice of this Court that the 34th defendant has filed suit in O.S.No.6661 of 2018, seeking declaration that the registered sale deed document no.402/2007, dated 22.12.2006, executed by the 34th defendant in favour of the plaintiff herein is null and void and not binding on those who did not join in the



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execution thereof among others. Similarly, a suit in O.S.No.4635 of 2015 filed by one M/s.Sundaram Constructions against plaintiff and 34th defendant herein is also pending adjudication before the XV Assistant Judge, City Civil Court in respect of the suit schedule property herein.

4.The aforesaid contentions of the learned counsel for the first respondent is extracted from paragraph no.13 of his counter affidavit. It is also pertinent herein to refer paragraph no.18 of the counter, wherein, it is stated that “without prejudice to the interest of the first defendant, the first defendant submits that keeping in view the pendency of rival suits mentioned supra, filed against the plaintiff herein in respect of suit schedule land, the first defendant has no objection in allowing the plaintiff to withdraw the money lying in the credit of the above suit and also if 34th defendant has got no objection. The first defendant leaves it to the wisdom of this Court whether to allow the plaintiff to withdraw the money lying in the credit of above suit in this Hon'ble Court”.

5.Mr.R.Muthukumar, the learned counsel for the 34th defendant is present before this Court and submitted that the 34th defendant has no



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objection for allowing this application. In fact, it is seen that the main defendants, namely, 1st and 34th defendants have no objection for the plaintiff to withdraw the amount which is rental dues due to him as the owner of the property. When the main contesting defendants 1 and 34 have no serious objection, this Court finds no reason that why this application cannot be allowed.

6.The objections raised by the learned counsel for the first respondent that the persons who have not joined the execution of sale agreement may object and make claim against plaintiff and the first defendant is a far fetched claim for the reason that they are not parties before this Court in this case.

7.It is seen that the Joint Registrar, Original Side has given a certificate that Rs.98,15,000/- (Rupees Ninety Eight Lakhs Fifteen Thousand only) now stand in the credit of C.S.No.574 of 2010 as Court deposit, which bears no interest.

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8. Therefore, taking note of all the factual circumstances, this Court allows this application and permits the petitioner herein to withdraw the sum of Rs.98,15,000/- (Rupees Ninety Eight Lakhs Fifteen Thousand only) deposited by the first respondent, subject to making good/settling any future legal claim made against this amount by any other parties.

9. Accordingly, this application is allowed.

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19.10.2022

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