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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 11TH DAY OF MARCH 2022

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.S.No.801 of 2017

M/s.Kumaran Ashram Medical Trust

Rep.by its Chairman *

*Dr.V.Raja Ramalingam

Ganesh Bhavan Complex I Floor,

No.80/1, Usman Road,

T.Nagar, Chennai- 600 017

(*Substituted as per order dated 25.03.2021 in A.No.1288/2021)

..Plaintiff

VS

1.Mr.K.M.Ahamadullah Badsha

S/o.K.M.Akbar Badsha Sahib

No.3, Kodambakkam High Road,

Chennai- 600 034

2.Mr.K.M.Asadullah Badsha

S/o.K.M.Akbar Badsha Sahib

No.3, Kodambakkam High Road,

Chennai - 600 034

3.Mrs.Imtiaz Fathima

W/o.Wadooth

No.3, Kodambakkam High Road,

Chennai- 600 034

4.Mr.Azamathullah Badsha

S/o.K.M.Akbar Badsha Sahib

No.3, Kodambakkam High Road,

Chennai- 600 034



5.M/s.Samuga Nalapani Kazhagam
Rep.by Mr.N.Gomathi Nayagam Pillai
No.3, Pillar's Road, Ashok Nagar,
Chennai- 600 078

6. The Chairman
Tamil Nadu Housing Board
Nandanam
Chennai- 600 035

7.The Land Acquisition Officer and
Special Tahsildar (LA) Unit III
Tamil Nadu Housing Board Scheme
Nandanam
Chennai- 600 035

..Defendants

Civil Suit praying that this Hon'ble Court be pleased to pass a judgment and decree against the defendants:

a) For a declaration declaring the plaintiff as the true and lawful owner of the suit schedule property.

b)For a declaration that the sale deed executed by the 1st defendant to and favour of the 5th defendant dated 16.02.1981 which was registered as Document No.689 of 1981 as sham and nominal document , void ab initio, non est in law, invalid and the same is not binding upon the plaintiff,

c) For a declaration declaring the Award No.1 of 1998 and Award No.2 of 1998 dated 09.03.1998 and 10.09.1998 respectively by the defendants 6 and 7 is exfacie illegal, void ab initio, and the same is not binding upon the plaintiff



d) For a permanent injunction restraining all the defendants, their men, agents, servants, representatives, legal heirs, successors, and assigns or any one claiming through or under them from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property in pursuance of the Award No.1 of 1998 dated 9.3.1998.

e) For a permanent injunction restraining the defendants 1 to 5, their men, agents, servants, representatives, legal heirs, successors and assigns or any one claiming through or under them from in any way encumbering, alienating or in any way dealing with the suit schedule property.

f) To pay the cost of the suit.

This civil suit coming on this day before this Court for hearing in the presence of Mr.Kandhan Duraisami, Advocate for the plaintiff herein and Mr.T.Mahendran, Advocate for the 2nd defendant herein and Dr.S.Surya, Additional Government Pleader, appearing for the defendants 6 and 7 herein and upon reading the plaint filed herien and the memo dated 03.01.2022 and the learned counsel for the plaintiff having submitted that in spite of maximum efforts, the plaintiff could not succeed in securing the legal heirs particulars of the deceased 4th defendant to implead them in the suit and the plaintiff is not in a position to conduct the case and wants to withdraw the



suit and he prays to withdraw the aforesaid suit and seeks liberty to the plaintiff to workout available remedy in accordance with law and he has filed a memo to that effect,

It is ordered as follows:-

That the suit in C.S.No.801 of 2017 be and is hereby dismissed as withdrawn.

2. That the plaintiff herein shall be at liberty to workout their remedy in accordance with law.

3. That there shall be no costs of this suit.

WITNESS THE HON'BLE MR. JUSTICE MUNISHWAR NATH BHANDARI, CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE 11TH DAY OF MARCH 2022.

Sd./-

ASSISTANT REGISTRAR (O.S.I)

//Certified to be true copy//

Dated at Madras this the day of 2022.

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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07.04.2022

C.S.No.801 of 2017

ORDER

DATED : 11.03.2022

THE HON'BLE MRS. JUSTICE
V.BHAVANI SUBBAROYAN

FOR APPROVAL: 17.05.2022

APPROVED ON : 26.05.2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED : 11.03.2022**CORAM****THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN****C.S.No.801 of 2017**

M/s. Kumaran Ashram Medical Trust,
Rep. by its Chairman,
Dr. V. Raja Ramalingam,
Ganesh Bhavan Complex I Floor,
NO.80/1, Usman Road,
T.Nagar, , Chennai - 600 017.

...Plaintiff

.Vs.

- 1.Mr. K.M. Ahamadullah Badsha,
2. Mr. K.M. Asadullah Badsha,
3. Mrs. Imtiaz Fathima,
4. Mr. Azamuathullah Badsha,
5. M/s. Samuga Nalapani Kazhagam,
Rep. by Mr. N. Gomathi Nayagam Pillai,
No.3, Pillar's Road, Ashok Nagar,
Chennai - 600 078.
6. Chairman,
Tamilnadu Housing Board, Nandanam,
Chennai - 600 035.
7. The Land Acquisition Officer and
Special Tahsildar (LA) Unit-III,
Tamilnadu Housing Board Scheme,
Nandanam, Chennai - 600 035.

... Defendants

Prayer:

Plaint filed under Order VII Rule 1 of the CPC, 1908 read with
Order IV Rule 1 of the Original Side praying for a judgment and decree as
follows:-



a) For a declaration declaring the plaintiff as the true and lawful owner of the suit schedule property.

b) For a declaration that the sale deed executed by the 1st defendant to and favour of the 5th defendant dated 16.02.1981 which was registered as Document No.689 of 1981 as sham and nominal document , void ab initio, non est in law, invalid and the same is not binding upon the plaintiff,

c) For a declaration declaring the Award No.1 of 1998 and Award No.2 of 1998 dated 09.03.1998 and 10.09.1998 respectively by the defendants 6 and 7 is exfacie illegal, void ab initio, and the same is not binding upon the plaintiff

d) For a permanent injunction restraining all the defendants, their men, agents, servants, representatives, legal heirs, successors, and assigns or any one claiming through or under them from in any way interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule property in pursuance of the Award No.1 of 1998 dated 9.3.1998.

e) For a permanent injunction restraining the defendants 1 to 5, their men, agents, servants, representatives, legal heirs, successors and assigns or any one claiming through or under them from in any way encumbering, alienating or in any way dealing with the suit schedule property.

f) To pay the cost of the suit.

For Plaintiff : Mr. Kandhan Duraisami

For Defendant-2 : Mr. T. Mahendran

For Defendants- 6&7 : Dr. S. Suriya A.G.P.



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J U D G M E N T

When the matter came up today for hearing, the learned counsel for the plaintiff would submit that in spite of maximum efforts, the plaintiff could not succeed in securing the legal heirs particulars of the deceased 4th Defendant to implead them in the suit. The plaintiff is not in a position to conduct the case and wants to withdraw the suit. Hence, he prays to withdraw the aforesaid suit and seeks liberty to the plaintiff to workout available remedy in accordance with law.

2.The learned counsel for the plaintiff has filed a memo to that effect.

3. In view of the submission of the learned counsel for the plaintiff and the memo filed to that effect, the Civil Suit in C.S. No.801 of 2017 stands dismissed as withdrawn granting liberty to the plaintiff to workout their remedy in accordance with law. No Costs.

Sd/-V.B.S.J.
11.03.2022

//Certified to be true copy//

Dated at Madras this the day of 2022.

COURT OFFICER(O.S.)

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