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C.S.No.475 of 1998

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2023

CORAM

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.S.No.475 of 1998

1.R. Hemavathi
2.R. Srilakshmi
3.Jayashree
4.R. Sripriya
5.Valambal
6.Marudhambal

...Plaintiffs

.Vs.

1. N.S. Sankar,
2. D. Thobias,
3. Bharath Finance Corporation,
4. Kavery Finance,
5. C.G. Soundararajan,
6. G. Meena,
7. M.S. Ganesan,
8. Mohamed Noor Khan,
9. M.A. Hussain,
10. E. Muthuraghavan,
11. N. Muthukrishnan,
12. Peria Andavar,
13. Cosy Financiers,
14. Deepak Biharilal,
15. Aravind K. Vore,
16. Versha Hemdev,

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17. Niranjan Hemdev,
18. Nanish A. Vore,
19. Vivek Foundry,
20. Dr. Vasantha,
21. D. Sivakamasundari,
22. S. Kalyanasundari,
23. Saravanan,
24. M. Muthu,
25. Rajeshwari Muthu,
26. K. Shanmugam,
27. S. Anuradha,
28. P. Mohideen,
29. P. Ameenah,
30. A. Peer Mohamed,
31. E. Thiruvadisamy,
32. T. Ashok Kumar,
33. T. Chinnaraj,
34. T. Kuruvammal,
35. S. Maheswaran,
36. S. Dhaivanai,
37. M.S. Sivalingam,
38. G. Parvathy,
39. Sri Lakshmi Finance Corpn. (Regd.)
40. Sreenivasa Financiers
41. Navarathna Finance Corpn.
42. Balaji Investments
43. Rasi Finance Corpn.
44. R. Shanmugavel,
45. P. Pasupathy,
46. P. Jayaraman,
47. Velusamy,
48. S.P. Balasubramanian,
49. Thirunindra Narayanan Finance &
Investments (P) Ltd.,
50. S. Sundaram,
51. S. Balasubramaniam,



52. V.Maragathavalli,
53. Padmavathy,
54. D. Krishnamurthy,
55. R. Ravichandran,
56. N. Mallika,
57. Kanthimathinathan,
58. S.P. Rajamanickam,
59. Dayalan,
60. Sudarsan Chits (India) Ltd.,
61. Nandheeswara Chits,
62. Thamarai Chits
63. M/s. Balaji & Co.,

... Defendants

Prayer:

Plaint filed under Order IV Rule 1 and Order XXXV of the High Court Original Side Rules, 1957 praying for a judgment and decree as follows:-

- a) To take over possession of the schedule property from the plaintiffs and frame a scheme for adjudication and settling the claims of the Creditors with the assets of Late .A.V. Ramanathan;
- b) To direct the payment of Court Fee and other cost incurred by the Plaintiffs in the first instance out of estate of late A.V. Ramanathan;
- c) To pass such further orders as this Hon'ble Court may deem fit and proper in the interest of justice.



For Plaintiffs : Mr. K.V. Sanjeev Kumar

For Defendants : Mr. K. Jayakumar for R8
: Mr. R. Thiagarajan for D47
: Mr. Manivarman for D43
: Mr. N.R. Anantha Ramakrishnan
for D48

J U D G M E N T

This civil suit is preferred under Order IV Rule 1 and Order XXXV of the High Court Original Side Rules, 1957 praying for a judgment and decree as follows:-

a) To take over possession of the schedule property from the plaintiffs and frame a scheme for adjudication and settling the claims of the Creditors with the assets of Late .A.V. Ramanathan and

b) To direct the payment of Court Fee and other cost incurred by the Plaintiffs in the first instance out of estate of late A.V. Ramanathan.

2.The case of the Plaintiffs, in a nutshell, as set out, in the plaint is as follows:-

(i) The 1st plaintiff is the wife, 2nd, 3rd and 4th plaintiff are the daughters, and the 5th and the 6th plaintiff are mother and the sister



respectively of one Late A..V. Ramanathan who was employed as private secretary to the Chief Electoral Officer, Public (Election) Department, Fort St. George, Chennai – 600 009 and was also running a computer center in the name and style of Priya Computer Centre with the 6th plaintiff lending her name as Proprietrix. Since A.V. Ramanathan died in a train accident on 30-09-1997, so many persons stating as Creditors who are arrayed as defendants herein are visiting the plaintiff's house claiming the amount alleged to have been paid by them to late A.V. Ramanathan. Since the plaintiffs were kept in dark about the entire transaction between the creditors/defendants herein and late A.V. Ramanathan, they were not in a position to either accept the claims of the creditors or repudiate the same.

(ii) Under such circumstances, the plaintiffs requested the creditors to show proof of the documentary evidence in support of their claim/payments made to late A.V. Ramanathan. Some of the creditors showed certain documents like promissory notes and signed cheques by A.V. Ramanathan and remaining creditors informed the plaintiffs that they would produce all the documents in the court at the time of repayment. Further, various defendants have also approached City Civil Court claiming recovery of money from the plaintiffs alleging that late A.V. Ramanathan had borrowed loan from them and as legal heirs of deceased late A.V. Ramanathan, the plaintiffs should repay the amount as the suit schedule property is inherited by them which is the immovable



property located at Door No.1, Corporation Colony, 2nd Street, Rangarajapuram, Kodambakkam, Chennai – 600024 that was left by late A.V. Ramanathan.

(iii) In view of the fact that debts were obtained by late A.V. Ramanathan, the plaintiffs being legal heirs of the deceased have no other way other than to approach this Hon'ble Court by way of filing the present administrative suit praying for the relief to take over the possession of the schedule mentioned property and frame a scheme for adjudication and settling the claims of the creditors with the assets of late A.V. Ramanathan.

3. During the pendency of the suit, 5th and 6th plaintiffs died leaving behind no legal heirs who are mother and widowed sister of Late A.V. Ramanathan respectively. Most of the defendants who were set ex-parte as early as 30.09.2009 and 06.08.2009 did not take steps further to set aside the ex-parte and they remained ex-parte even till date. Further, during the Trial, only defendants 8, 43, 47, and 48 filed their proof of claim before the Master even though other defendants were given sufficient opportunity to file their proof of claim. As far as the 47th defendant is concerned, he obtained Judgment and Decree dated 29.08.2017 in C.S. No.604 of 1997 which is filed against the plaintiffs, in his favour.



4. In pursuance of the order dated 08.01.2019 and 12.10.2020 of this Court, the Advocate Commissioner, ie. Mr. K.Sathish Kumar, sold the suit property to the successful bidder namely Mrs. Jayalakshmi Nagarajan for a sale consideration of Rs.3,40,28,800/- and the same was deposited in the Indian Bank, High Court Branch under interest bearing deposit. Thereafter, Sale Certificate was issued and possession of the suit property was handed over to the successful bidder along with the original documents of the suit schedule property.

5. When the case was listed on 30.09.2022, this Court directed the defendants to file their claim before the Master Court. The defendants 8,43,47 and 48 only came forward to file their claim and record their evidence. According to their claim, a Calculation Memo has been filed by the plaintiffs with the consent of the aforesaid defendants before this Court and the same was also endorsed by the defendants 8, 43, 47 and 48 accepting the memo of calculation which has been prepared from the date of borrowal till the date of 16.11.2023 on which day the amount deposited in the Indian Bank gets matured.

1. When the matter is taken up for hearing today, the learned counsel for the plaintiffs, the learned counsel for the defendants 8, 43, 47 and 48 and the Advocate Commissioner are present.

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7. The learned counsel for the plaintiffs would submit that since the amount of Sale consideration deposited in the Indian bank, High Court Branch, gets matured on 16.11.2023, this Court may be permitted to disburse the amount to the defendants who have filed proof of claim before the Master.

8. The learned counsels appearing for the defendants 8, 43, 47 and 48 would jointly submit that they have accepted the Calculation Memo dated 11.09.2023 filed by the plaintiffs and they have made endorsement in the said Memo after receiving the same.

9. The learned counsel for the 47th defendant would submit that during the pendency of the suit, 47th defendant ie. Mr. A. Veluchamy died. But, his legal heirs have not been impleaded in the suit since he was not in a position to get the particulars of the legal heirs. Hence, the amount of Rs.1,15,67,318.77/- may be retained to the credit of C.S. No.475 of 1998 as fixed deposits auto renewable every year till legal



heirs of the 47th defendant would have been impleaded and filing appropriate application claiming the amount before this Court.

10. Having considered the facts and circumstances of the case and submissions made by the learned counsel for the plaintiffs, the learned counsel for the defendants 8,43,47, and 48, and the learned Advocate Commissioner and other defendants have not taken any steps to contest their claim by filing appropriate applications to restore them on file and they remained set ex-parte, this Court is inclined to pass the following directions:

a) The 1st plaintiff and the defendants 8, 43,48 should furnish their bank account details to the Advocate Commissioner on or before 16.11.2023.

b) On receipt of the account details of the respective defendants, the Advocate Commissioner shall transfer the amount as per the details given below:

- i) Rs.7,74,108/- to the 8th defendant's account
- ii) Rs.8,62,784/- to the 43rd defendant's account and
- iii) Rs.25,36,904/- to the 48th defendant's account from the



amount i.e. deposited to the credit of C.S. No. 475 of 1998 which is getting matured on 16-11-2023.

c) In view of the submission of the learned counsel for the 47th defendant, the Advocate Commissioner is hereby directed to retain Rs.1,15,67,318.77/- to the credit of CS.No.475 of 1998 as Fixed Deposits auto renewable ever year till taking appropriate steps by the learned counsel for the 47th defendant to bring on record the Legal heirs of the 47th defendant and thereafter claim the amount.

d) This Court fixes an amount of Rs.10,00,000/- as remuneration to the Advocate Commissioner who had meticulously carried out the warrant of this Court from 2019 till the date of disbursement. This Court appreciates the efforts taken by the Advocate Commissioner. The learned counsel on either side has acknowledged and consented for the efforts taken by the Advocate Commissioner.

e) The Advocate Commissioner upon disbursing all the amounts as stated above to the respective defendants and upon complying the directions under clause (d) which is the remuneration of the Advocate



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Commissioner, the Advocate Commissioner shall transfer the remaining amount to the 1st plaintiff's account to which the other plaintiffs 2, 3 and 4 have already consented by their separate affidavit filed before this court as early as October 2018.

f)The Advocate Commissioner after complying all the above directions shall file a compliance report along with necessary proof of transfer before this court immediately.

11. In the result, the suit is decreed as aforesaid recording the said calculation memo dated 11.09.2023 filed by the Plaintiffs which shall form part of decree. No Costs.

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Index : No

Internet : Yes

Speaking order



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A.A.NAKKIRAN.,J

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