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C.S.No.699 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.S.No.699 of 2011

Abbas S.Lehry

...

Plaintiff

versus

1.M/s.Kgeyes Residency Private Ltd.,
Rep. by its Managing Director,
P.V.Shanmugam,
“Srushtissthal, No.10, II Cross Street,
Raja Annamalaipuram,
Chennai - 600 028.

2.S.Parvathi (Deceased)

3.A.Lakshmi

4.S.Saraswathi

5.S.Venkatasubramanian

6.Nandhini

7.Nethra

D/o.Late S.Paramaguru

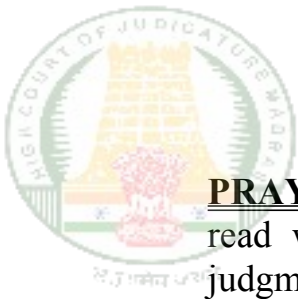
(7th defendant declared as major and Nandhini discharged from the guardianship as per order dated 16.07.2021 in Appl.Nos.1813 & 1814 of 2021)

8.S.Srinithi

...

Defendants

(8th defendant is brought on record as legal heir of the deceased 2nd defendant as per order dated 24.02.2022 in Appl.No.39 of 2022 and time extended as per order dated 25.03.2022)



PRAYER: Civil Suit filed under Order IV Rule 1 of Original Side Rules read with Order VII Rule 1 of Code of Civil Procedure, praying for a judgment and decree against the first defendant :-

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- (a) to direct the first defendant herein to sell the said Flat viz., Flat No.3H in the third floor in the southwest side in the southwest Block with a total built up area of 1610 sq.ft. in the residential complex “Kgeyes Eternity” bearing Plot No.21, Parvathy Street, Kalakshetra Colony, Besant Nagar, Chennai - 600 090 and execute the sale deed for proportionate undivided share of land and morefully described in the plaint schedule hereunder to the plaintiff, in terms of the agreement of allotment dated 05.03.2009 after collecting the balance amount of Rs.1,28,06,970/- by executing necessary documents in favour of the plaintiff;
- (b) to direct the first defendant to deliver the constructed Flat No.3H in the third floor in the southwest side in the southwest block with a total build up area of 1610 sq.ft. in the residential complex “Kgeyes Eternity” bearing Plot No.21, Parvathy Street, Kalakshetra Colony, Besant Nagar, Chennai - 600 090;
- (c) in the alternate to prayer in para (i) and para (ii) direct the first defendant to pay damages of Rs.1,25,00,000/- (Rupees One Crore and Twenty Five Lakhs only) to the plaintiff as damages towards breach of contract committed first defendant as well as in the capacity of power agent of 2nd defendant to 7th defendant;
- (d) to award costs of the suit.

For Plaintiff : Mr.R.S.Kirubakaran

For Defendant Nos.1 & 3 to 7 : Mr.Rahul Balaji



JUDGMENT

This Civil Suit has been filed for specific performance along with other reliefs and damages.

2. Heard the learned counsels for the plaintiff and defendants 1, 3 to 7 and perused the materials available on record.

3. The learned counsel for the plaintiff has filed a memo dated 20.06.2023 stating that the matter is settled out of Court and hence the memo may be recorded and the suit may be dismissed as withdrawn by refunding the full Court Fee. The said memo is recorded.

4. In view of the same, the suit in C.S.No.699 of 2011 is dismissed as withdrawn as settled out of Court by refunding the full Court Fee. No costs.

20.06.2023

Speaking order / Non Speaking Order

Index : Yes / No

Neutral Citation : Yes / No

sri

Witnesses examined on the side of plaintiff:-

3/7



P.W.1	Abbas S.Lehry
P.W.2	Yasmin Abbas

List of documents marked on the side of plaintiff:-

Ex.P1	Cheque dated 11.02.2009 issued by plaintiff to 1 st defendant for Rs.5,00,000/- towards advance
Ex.P2	Allotment letter dated 05.03.2009 issued by 1 st defendant to plaintiff for sale of the flat
Ex.P3	Receipt dated 14.05.2009 issued by 1 st defendant for advance payment received by 1 st defendant
Ex.P4	Legal notice dated 31.03.2011 issued by plaintiff to 1 st defendant
Ex.P5	E-mail dated 04.05.2011 sent by 1 st defendant to plaintiff
Ex.P6	E-mail dated 07.05.2011 sent by plaintiff to 1 st defendant
Ex.P7	E-mail dated 07.05.2011 from 1 st defendant to plaintiff
Ex.P8	E-mail dated 07.05.2011 from plaintiff to 1 st defendant
Ex.P9	E-mail dated 09.05.2009 from 1 st defendant to plaintiff
Ex.P10	Legal notice dated 16.05.2011 issued by plaintiff to 1 st defendant
Ex.P11	Postal Acknowledgment card dated 19.05.2011
Ex.P12	Reply dated 27.06.2011 sent by the first defendant
Ex.P13	Rejoinder notice dated 09.07.2011 issued by the plaintiff
Ex.P14	Encumbrance certificate dated 22.07.2011
Ex.P15	Income Tax Returns submitted to the Income Tax Department for the year 2009-2010
Ex.P16	Income Tax Returns submitted to the Income Tax Department for the year 2010-2011



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Ex.P17	Income Tax Returns submitted to the Income Tax Department for the year 2011-2012
Ex.P18	Income Tax Returns submitted to the Income Tax Department for the year 2012-2013
Ex.P19	Auditor certificate as of 30.09.2015 possessing tangible assets worth Rs.16,08,05,046/- as on 15.09.2015
Ex.P20	Certified copy of the sale deed dated 11.05.2009 and registered as document No.488 of 2009
Ex.P21	Copy of the construction agreement dated 26.10.2009 entered into between the plaintiff and M/s.S.S.Constructions
Ex.P22	Certified copy of the sale deed dated 29.04.2011 and registered as document No.606 of 2011
Ex.P23	Certified copy of the agreement of sale deed dated 05.04.2013 executed by M/s.Vindiya Homes Pvt. Ltd. in favour of the plaintiff
Ex.P24	Certified copy of the sale deed dated 05.04.2013 executed by M/s.Vindiya Homes Pvt. Ltd. in favour of Mr.Adnan A.Lehry
Ex.P25	Sale deed executed in favour of Mr.Sri Giriraju Ramachandra and Mrs.Sri Giriraju Sasireka dated 29.11.2011

Witnesses examined on the side of Defendants:-

D.W. 1	M.Krishnamurthy
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List of documents marked on the side of Defendants:-

Ex.D1	Affidavit of plaintiff in A.No.3644 of 2017
Ex.D2	Original Resolution of the first defendant Company
Ex.D3	Photocopy of the planning permission issued by CMDA
Ex.D4	Photocopy of the building permission issued by Corporation of Chennai dated 09.02.2011

20.06.2023

Copy to :

- 1.The Sub Assistant Registrar,
Original Side, High Court of Madras.
- 2.The Record Keeper,
Original Side Records Section,
High Court of Madras.



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R.N.MANJULA, J.

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20.06.2023