



CRP. No.3300 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP. No. 3300 of 2023

M/s Goldpet Polymers Limited,
Rep.by its Managing Director,
Mr.R.kandan

...Petitioner/Petitioner/7th Defendant

Vs

- 1 KUMARESH NARENDRA
No.141/3 GEO Colony Jagir Ammapalayam
Salem 636 302 ..1st Respondent/1st Respondent/Plaintiff
- 2 G.D.Narendra alias Narendira
KullamaNayakkar 12/3 Thondiamakkan 3rd
stree Ice House Chennai 600 005
- 3 Vummidiars Agencies
Rep by its Partner V.Sundhakar Prem flats
New No.1/1 Arundale Beach Road Besant
Nagar Chennai 600090
- 4 R.Srinivasan
S/o late T.C.Ramachandra Naidu Door No.14
Block No.19 Anna Nagar West Chennai 600 101
- 5 G.Ravindran



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S/o late P.Govindaswami No.7 Brahadambal
street Nungambakkam Chennai 600 034

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- 6 Valli Enterprises
Rep by its managing partner G.Chiitbabu No.
405/164 Konnur High Road Ayanavaram
Chennai 600023
- 7 ValuenowInfotech Limited
Rep by its Director P.Swaminathan No.23
Venkatesh Agraharam Mylapore Chennai 600004
- 8 Asia Sales Agencies
Old No.809 New No.120 Anna Salai Chennai
600 002
- 9 Harrison Book Center
Old No.809 New No.120 Anna Salai Chennai
600 002
- 10 The Double Bull Wagon
Old No.809 New No.120 Anna Salai Chennai
600 002
- 11 Big Apple
Old No.809 New No.121 Anna Salai Chennai
600 002
- 12 Sarvanmangal
Old No.809 New No.121 Anna Salai Chennai
600 002
- 13 New Crockery World
Old No.809 New No.121 Anna Salai Chennai
600 002
- 14 Creative Books



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Old No.809 New No.121 Anna Salai Chennai
600 002

15 Oceanic Appearls Pvt ltd
Old No.810 New No.121 Anna Salai Chennai
600 002

16 National House of Glasses
Old No.809 New No.121 Anna Salai Chennai
600 002

17 Suren Enterprises
Old No.809 New No.121 Anna Salai Chennai
600 002

18 M.Mahendra Kumar
Old No.809 New No.121 Anna Salai Chennai
600 002

19 Alan Medical and Laboratory
Products Old No.809 New No.121 Anna Salai
Chennai 600 002

20 Cambridge
Old No.809 New No.121 Anna Salai Chennai
600 002

21 Hotel Nirmala
Old No.809 New No.121 Anna Salai Chennai
600 002

22 P.Venugopal Reddy Bunk
Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

23 Quick Eats
Ground floor GoldpetCenter Old No.811 New



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No.122 Anna Salai Chennai 600 002

24 Techinfo Solutions

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

25 New Fire Guard Markets (Pvt)

Ltd Ground floor GoldpetCenter Old No.811
New No.122 Anna Salai Chennai 600 002

26 Savitha Enterprises

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

27 Kamal Traders

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

28 Tirupati Traders

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

29 Majestic and Co

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

30 Ezhil Enterprises

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

31 Graphic Technologies Sign Pa

rk (Pvt) Ltd Ground floor GoldpetCenter
Old No.811 New No.122 Anna Salai Chennai
600 002

32 Hamsaveni Software (Pvt) Ltd

Ground floor GoldpetCenter Old No.811 New



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33 Hamsavenilmpex (Pvt) ltd

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

34 Hamsaveni Travels (Pvt) ltd

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

35 Loom World

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

36 S.Ibrahim and Co

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

37 London Stores

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

38 Karnataka Silk Industries Co

orporation ltd Ground floor GoldpetCenter
Old No.811 New No.122 Anna Salai Chennai
600 002

39 Jai Travels

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

40 Jai Enterprises

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

41 S.S.Traders

Ground floor GoldpetCenter Old No.811 New



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No.122 Anna Salai Chennai 600 002

42 RMH Corporation

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

43 Hotel NirmalaDakshin

Ground floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

44 P.Kishore Kumar

first floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

45 HBN Dairies and Allied Ltd

First floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

46 Hotel Nirmala Dakshin

Second floor GoldpetCenter Old No.811 New
No.122 Anna Salai Chennai 600 002

47 Archana Sweets

Old No.812 New No.123 Anna Salai Chennai
600 002

48 Archana Electronics

Old No.812 New No.123 Anna Salai Chennai
600 002

49 K.Sriranjani

w/o Narashimalu No.3 First Cross Street
Olympic Colony Mogappair West End Chennai
600 037

50 Dr.VivekMady

s/o late S.Krishnasamy No.866 P.H.Road



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Chennai 600010.

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...Respondents

PRAYER : This Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 02.08.2023, passed by the learned IIIrd Additional City Civil Court, Chennai in I.A No. 17 of 2023 in O.S No. 683 of 2011.

For Petitioner : Mr.P.H.Manoj Pandian for M.L.Sripathi

For R1 : Mr. R.Thiagarajan

For R2 : No such person

For R3, R4, R49: Service awaited

For R39 : Mr.P.Sivamani

For R42 : Mr.Avinash Wadhwani

For R36 : Mr. N. Imthias

For R8, R19, R50: Mr.K.P.Ashok

For R5, R9, R10, R12,

R13 to R16, R20 to R22

R28, R31, R37, R43,R44

& R46 : Not Appeared

R27, R40, R41, R47 &R48 : Door locked

R9, R11, R17, R18, R23 to R26

R29, R30, R32 to R35, R38 & R45 : vacated



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ORDER

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This petition has been filed to set aside the fair and decreetal order dated 02.08.2023, passed by the learned IIIrd Additional City Civil Court, Chennai in I.A No. 17 of 2023 in O.S No. 683 of 2011.

2. The first respondent herein (then minor represented by his mother) filed the suit in O.S No. 683 of 2011 on the file of the III Additional City Civil Court, Chennai, to declare the lease deed and sale deed dated 18.05.1981 executed by his father/first defendant in favour of other defendants as null and void and for other consequential relief in respect of the suit property with an extent of two ground 2190 square feet with door number 122, 123 at Anna Salai, Chennai against fifty defendants in which the first defendant is father of the minor plaintiff, 2 to 50 defendants are purchasers of the suit property and some of the defendants contested the suit by filing written statement, during pendency of the suit the seventh defendant/petitioner herein filed a petition under Order 7 Rule 2 and under Section 151 of CPC to direct the plaintiff to pay Court fee in terms of Section 25-B of Court fee Act failing which prayed to reject the plaint.



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3. The contention of the petitioner is that the plaintiff has paid the court fee under Section 25-D of Court fee Act to the tune of Rs.18,545/- by valuing the property as Rs.15,02,000/- as such is incorrect and correct value of the property has not been submitted by the plaintiff, so also, the plaintiff should have paid the court fee under Section 25-B of Court fee Act for the reason that the plaintiff prayed to declare 58 sale deeds dated 18.05.1981 executed by his father in favour of one Srinivasan as null and void and the correct value of the property was fifteen crores but the total extent of the property is 29 grounds 64 square feet and market value of the property cost more than 70 crores and on deducting half of the market value it cost around two crores sixty six thousand but the plaintiff under valued the suit property filed the suit. Hence, they prayed to reject the plaint.

4. By submitting counter objection, the plaintiff contended that the seventh defendant filed the said objection belatedly after 12 years from the date of the suit. Further, the suit property is correctly valued as purchaser/third party petitioner has no locus standi to challenge the court fee paid by the plaintiff as incorrect.

5. Considering the submissions on either side, the Trial court held



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that the suit is filed not for declaration and recovery of possession or for declaration and consequential relief of permanent injunction. Therefore, the valuation of the suit under Section 25 (d) of TNCF and SV Act is proper and the payment of Court fee under Section 25(d) of the Act is also proper on the date of the filing of the suit. Accordingly, dismissed the said application. Aggrieved over the same, the petitioner filed this Civil Revision Petition.

6. The learned counsel for the petitioner submits that the learned judge was erred in dismissing the application without appreciating the legal proposition. Further, he argued that application under Order 7 Rule 2 of CPC can be filed any time. Accordingly, the petitioner filed the application to direct the plaintiff to pay court fee of Rs.2,66,04,536/-, but the Trial Judge without analysing the proper value of the property erroneously dismissed the application. Hence, he prays to allow this petition.

7. By way of reply the learned counsel for the respondents submits that as per life interest given to the plaintiff's father, on the date of filing of suit, minor has no right over the suit property. Therefore, he paid the Court fee under Section 25-d of Court Fee Act as such is valid and the same was rightly observed by the Trial Court which needs no interference. Hence, he



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prays to dismiss this petition.

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8. Considering the submissions on either side and also on perusal of records, it reveals that the suit was filed by the plaintiff to declare the lease deed and sale deeds as null and void and at the time of filing the suit he was minor he was represented by his grand mother. In the year of 2011 he attained majority and contested the suit independently. As per the plaint averment life interest was given to his father/first defendant by the grand father of the plaintiff but he sold the property and entered lease agreement with other defendants as such is void and does not bind the plaintiff, thus he prayed to declare the deeds as null and void. But seeing the prayer the plaintiff approached the Court to declare 58 sale deeds as null and void and also prayed for declaration. But, contrary to the pleadings in the suit he claimed declaratory relief in the prayer as such is clearly denotes that the plaintiff claiming himself as absolute owner of the suit property but the defence on the side of the plaintiff is that on the date of filing it is only a intangible right, only after the lifetime of the first defendant, the plaintiff is entitled to seek for declaration. So the prayer as well as pleadings are contrary to each other in its entirety. The plaintiff approached the Court for declaration of lease deed stands in the name of 2 to 49 defendants as null



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and void. However, he has stated that the property is incapable of valuation so by invoking 25- D of Court fee Act he paid Court fee. But the contention of the defendant is that property can be capable of valuation so the plaintiff's should have paid Court under Section 25-b of Court fee Act. Section 25- b of Court fee Act speaks as follows:

25. Suits for declaration In a suit for a declaratory decree or order, whether with or without consequential relief, not falling under section 26 -- (b) where the prayer is for a declaration and for consequential injunction and the relief sought is with reference to any immovable property, fee shall be computed on one-half of the market value of the property or on1 [rupees one thousand], whichever is higher;

9. Further, the suit property is situated at Anna Salai, Chennai, so it is capable to value the property under Section 25-b of Court Fee Act, hence the plaintiff is liable to pay one half of the market value of the suit property i.e., Rs,2,66,04,536/- as Court fee. But the Trial Court failed to appreciate the above facts. Hence, the order passed by the Trial Court is set aside. Further, when the matter was taken up the plaintiff's counsel submits that they are not able to pay such court fee which clearly implies that they are not inclined



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to pay the Court fee. Therefore, the suit filed by the plaintiff is ordered to be rejected.

10. In the result, this Civil Revision Petition is allowed. No Costs.

Consequently, connected miscellaneous petition is closed.

22.01.2023

pbl

TO

The X Assistant City Civil Court, Chennai.



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T.V.THAMILSELVI,J.

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