



S.A.No. 789 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

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C.M.P.No. 15272 of 2021

M/s.Raintree Flat Owners
Association,
A registered society
Rep. by its Secretary
S.Ravichandran
Rain Tree Flats
No.21, Venus Colony,
Second Street Alwarpet,
Chennai – 600 018

...Appellant

Vs.

1. M/s.Venus Studios
Rep. by its Managing Partner,
M.V.G.K.Appa Rao,
Venus Apartments, Ground Floor,
Varadarajapuram Main Road,
Alwarpet,
Chennai – 600 018.



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2. M/s.Vijay Shanthi Builders Limited,
Rep. by its Director
Vijay Complex, Blackers Road,
Mount Road,
Chennai – 600 002

...Respondents

Prayer: Second Appeal is filed under Section 100 of the Code of Civil Procedure against the Judgment and Decree dated 20.08.2019 made in A.S.No.100 of 2018 on the file of the XVI Additional City Civil Judge, Chennai, confirming the Judgement and Decree dated 27.10.2017 made in O.S.No.4651 of 2014 on the file of the XIII Assistant City Civi Judge, Chennai.

For Appellant : Mr. A.V.Arun

For Respondent 1 : Mr.Kuberan
For M/s.Rank Associates.

For Respondent 2 : No Appearance.

J U D G M E N T

The 1st defendant is the appellant before this Court questioning the decree passed in O.S.No.4651 of 2014 by the XIII Assistant City Civil Judge, Chennai, which has been confirmed by the XVI



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Additional City Civil Judge, Chennai.

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2. The aforesaid suit had been filed by the 1st respondent herein for a mandatory injunction directing the 1st defendant to return / handover all the original documents, listed in the schedule to the plaint. It is the case of the plaintiff that the plaintiff was the original owner of the larger extent of 101 grounds of land, in Venus Colony, Varadarajapuram Main Road, Alwarpet, Chennai. The entire extent was subdivided into four plots. In one portion, M/s.Alacrity Housing Limited, had constructed 176 apartments. In another extent of 11 grounds, partners of the plaintiff firm had got four houses constructed for their own use and another 6.1 grounds having an approach from Varadarajapuram Main Road was retained by the owners.

3. The plaintiff would therefore submit that since they are holding an extent of 17.1 grounds in two plots, the original documents have to be retained by them. The 2nd defendant who was a builder had



taken the documents from HDFC Limited, where the property has been pledged as a security and handed over the documents to the 1st defendant association. The plaintiff would submit that they continue to own the property and the association should be asked to handover the documents back to him.

4. The said suit was resisted by the defendants by contending that the plaintiff cannot claim exclusive ownership of the total property. Further, once the plaintiff admits that the property has been developed into the residential complex, they cannot seek to have the possession of the original documents. The 1st defendant would submit that they are holding documents for and on behalf of the owners of the various apartments in a representative capacity. The 1st defendant had entered into an agreement only with the 2nd defendant association and therefore they have no relationship with the plaintiff and they cannot be called upon to handover the documents.



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5. The Trial Court had framed the following issues:

(i) Whether the plaintiff is entitled for mandatory injunction as prayed for?

(ii) What other reliefs the plaintiff is entitled to?

6. The plaintiff had examined one Appa Rao as P.W.1 and marked Ex.A.1 to Ex.A.10. On the side of the defendants, one Sambasivam was examined as D.W.1 and Ex.B.1 to Ex.B.4 were marked.

7. The suit was ultimately decreed as prayed for as the Court observed that each of the flat owners have an undivided share in the entire land. The plaintiff on the other hand holds an extent of 17.1 grounds. This Judgement and Decree was taken up on appeal by the 1st defendant in A.S.No.100 of 2018 on the file of the XVI Additional City Civil Court, Chennai.



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8. The Lower Appellate Court had also confirmed the Judgement and Decree passed by the Trial Court.

9. It is challenging this Judgement and Decree that the 1st defendant is before this Court.

10. The issue in question is covered by proviso (a) to Section 55 (3) of the Transfer of Property Act, 1882, which reads as follows:

“Where the seller retains any part of the property comprised in such documents, he is entitled to retain them all.”

11. Admittedly, the plaintiff continues to hold an extent of 17.1 grounds. Therefore, the Courts below have rightly held that the plaintiff should be in possession of the original documents. The learned counsel appearing for the defendants have expressed apprehension that the plaintiff may not permit the flat owners to



peruse the original documents, once the original documents are handed over to them. However, in this regard, reference may be made to the plaint, where in paragraph No.9, the plaintiff has stated as follows:

“Since the plaintiff is always willing to provide inspection of the documents, to all the members of both the Groups, whenever required, with a proper notice, no prejudice will be caused to anyone of them.”

12. In the light of the above, I see no reason to interfere with the concurrent Judgement and Decree of the Courts below. The defendants shall therefore handover all the documents as set out in Ex.B.3 to the plaintiff within a period of 2 weeks from today, i.e., 22.03.2024. It is needless to state that as and when the apartment owners need to peruse the original records, the plaintiff shall make it available to them, on receiving a proper written request in this regard.



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13. In the result, the Second Appeal is dismissed with the above direction. Consequently, the connected Civil Miscellaneous Petition is closed. No costs.

22.03.2024

Index : Yes/No
Internet : Yes/No
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To

1.The XVI Additional City Civil Judge,
Chennai

2.The XIII Assistant City Civi Judge,
Chennai.



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P.T. ASHA, J,

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