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Comp.A.No.312 of 2021

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in
C.P.No.17 of 2004

Krishnan Ramasamy, J.,

This application is filed by one of the land owners of the property belonging to S.F.No.722/1, seeking to direct the Official Liquidator to release the lands of the Applicant in S.F.No.722/1, measuring to an extent of about 1.09 acre in Irumborai Village, Mettupalayam Circle, Coimbatore District from the lease deed dated 19.06.2009 executed between the Official Liquidator, High Court, Madras and Mr.M.Palanisamy registered as Document No.2915/2009, registered before the Office of the Sub-Registrar, Punjai Puliampatti.

2. Mr.Silambaman, learned Senior Counsel representing for Mr.Jayakumar, learned counsel for the applicant, would submit that the property in S.F.No.722/1, Irumborai Village, Mettupalayam Circle, Coimbatore District, which is the subject matter of this application belongs to the applicant herein. The aforesaid property was allotted to the applicant by virute of family partition of total extent of about 3.28 acres, vide Registered Document dated 28.12.1988, registered on the file of the Sub Registrar Office, Gobi Chettipalayam, vide Doc.No.888 of 1989. Subsequent to the execution of the said deed, the applicant is in continuous occupation and possession of the



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aforesaid property. When the applicant intended to sell his aforesaid property, the applicant came to know the fact that his land, though is still in his possession, has been arbitrarily included in the list of properties said to be belonging to the SIV Industries Ltd. He would further submits that the applicant never sold or leased out the aforesaid property, and never handed over the possession of the aforesaid property, and there is no Power of Attorney or any other document relating to the aforesaid properties available with the Official Liquidator or with the company in liquidation.

2.1. He would submit that the originals of the aforesaid property's documents are available with the applicant. In similar matters, where the original documents are available, this Court already released the property from the lease deed executed by the Official Liquidator to the third parties. The applicant produced the said order copy of this Court dated 28.09.2007 made in batch of C.A.No.1402 of 2007 etc., as the applicants therein obtained orders for release of their respective properties. Hence, he submitted that following the said order, since the original documents are available with the applicant, and neither the Official Liquidator nor any other party produced any of the documents relating to the purchase of the aforesaid property, it is made clear that the aforesaid property has been wrongly entered in the lease deed.



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Therefore, he sought for the release of the aforesaid property from the lease deed executed by the Official Liquidator in favour of the lease holder as ordered by this Court.

3. Ms.B.Ambili, Deputy Official Liquidator, would submit that the original documents were not available with them and that initially there was a confusion, as in the year 1989 the document was registered, however the document referred is pertaining to the year 1988. So, after verification, she would submit that initially the document referred to as 1988 was pending for the registration and the documents were registered in the year of 1989. On perusal of the certificate issued by the Bank, with regard to the mortgage of the aforesaid property and the availability of the original title deeds by virtue of letter dated 27.06.2024, she would submit that the originals are not available with them. Therefore, she submitted that no other document is available except the lease deed and some of the agreements viz., Supplemental Agreement dated 12.05.1999 executed between some third parties namely Mr.Ramesh Bafna and Mr.Phool Chand Jain with the Company, where they have entered into an agreement for the purchase of the aforesaid property. Further, she submitted that it was intended by the Company in liquidation to purchase all the connected properties in a particular area. Therefore, they have taken out the entire survey



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numbers and entered into an agreement to purchase the same. Therefore, she fairly submitted that any order may be passed by this Court.

4. The learned counsel for the lease holder initially would submit that the properties were leased out and included in the lease deed. However, he would submit that original documents are not available with them and the said aspect was also confirmed by the Official Liquidator.

5. Considering the submissions made by the learned Senior Counsel for the applicant, the learned Deputy Official Liquidator and the learned counsel for the lease holder and on perusal of the materials available on record, it is clear that the property in S.F.No.722/1, to an extent of 1.09 acre of land was included in the lease deed executed by the Official Liquidator by this Court on 19.06.2009, vide Document no.2915 of 2009, which is the subject property of this application.

6. The original title deed is available with the Bank, as it was mortgaged by the applicant to avail agricultural loan facility and the letter issued by the Bank dated 27.06.2024 also confirmed the same. The agreement between Mr.Ramesh Bafna and Mr.Phool Chand Jain, states that they intend to purchase



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the properties in the aforesaid survey number. The learned counsel for the Official Liquidator would submit that, since they have entered into a sale agreement, unless and otherwise they purchased the properties from Mr.Ramesh Bafna and Mr.Phool Chand Jain, the company in liquidation will have no right and they were not able to produce any document before this Court.

7. Under these circumstances, this Court arrives at the conclusion that the owner of the property is only the applicant and the original documents are also available with him. Apart from the aspect of the agreement between one agent of the company viz., Mr.Ramesh Bafna and Mr.Phool Chand Jain, no other document is available. Therefore, this Court is of the view, that the property in S.F.No.722/1, measuring to an extent of about 1.09 acre in Irumborai Village, Mettupalayam Circle, Coimbatore District, belongs to the applicant, since the possession of the aforesaid property is with the applicant, if it is released, the applicant can enjoy the aforesaid property. In similar manner, this Court issued a direction to release the land of their respective properties, since the original documents are available with the applicant. In the event, if the originals are not available with the applicant, then the prayer would have been rejected.



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8. Therefore, this Court is of the opinion that the aforesaid property which belongs to the applicant is to be taken out from the purview of the company in liquidation and accordingly, the aforesaid property is released from the purview of the Company Court proceedings/Official Liquidator.

9. With the above direction, this Company Application is allowed.

26.07.2024

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