



C.M.P.Nos.16741 of 2021 & 13420 of 2023
in A.S.No.266 of 2007

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 23.01.2024	Pronounced on: 29.04.2024
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CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.P.Nos.16741 of 2021 & 13420 of 2023
in
A.S.No.266 of 2007

C.M.P.No.16741 of 2021:

Selliamman Koil Co-operative
House site Society Ltd X.N.C.722,
Rep. by its President K.Sekar,
having their office at, No.1, K.K.Nagar,
5th Street, Ayanavaram, Chennai – 600 023.

.. Petitioner

Vs.

1.K.Gopalsamy Chetty

2.K.Kothandaraman (Died)

3.K.Veeraraghavan

4.Kesavalu (Died)

5.Ranganayaki Ammal

6.K.Mohana



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7.K.Ravichandar

8.K.Lakshmi

9.K.Lakshmanan

10.K.Vittobai

11.K.Rohini Devi

12.K.Jayanti Bai

13.K.Lokesh

14.K.Vijayabaskar

15.Thanthai Periyar Nagar Welfare Association,
Rep. by its Secretary S.G.Parameswaran,
Plot No.91, Thanthai Periyar Nagar,
Ayanavaram, Chennai – 6000 023.

16.Rani Real Estate Agencies,
Rep. by its Prop. K.Devasagayam,
No.2/11, Main United India Nagar,
Kodambakkam, Chennai – 600 024.

.. Respondents

Prayer in C.M.P.No.16741 of 2021: This Miscellaneous Petition is filed under Section 151 of CPC, praying to pass an order permitting the petitioner society to collect the Additional Sale Consideration from the members, in pursuant to the decree and judgment passed in A.S.No.266 of 2007 dated 25.01.2019 without the intervention of any member or members of the first respondent Association or the respondents 2 to 13, by extending the time.

For Petitioner : Mr.J.Raja Kalifullah



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Senior Counsel
for Mr.Jayendrkrishnan

For R15 : Mr.V.Srikanth

C.M.P.No.13420 of 2023:

Thanthai Periyar Nagar Welfare Association,
Rep. by its Secretary S.G.Parameswaran,
Plot No.91, Thanthai Periyar Nagar,
Ayanavaram, Chennai – 6000 023.

.. Petitioner

Vs.

1.K.Gopalsamy Chetty

2.K.Kothandaraman (Died)

3.K.Veeraraghavan

4.Kesavalu (Died)

5.Ranganayaki Ammal

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11.K.Rohini Devi



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12.K.Jayanti Bai

13.K.Lokesh

14.K.Vijayabaskar

15.Selliamman Koil Co-operative House site Society Ltd.,
X.N.C.722, having its office at
No.80, Thanthai Periyar Nagar,
Ayanavaram, Chennai – 600 023.
Rep. by its Vice President,
(In-charge-Secretary), Thiru.J.Sampath.

16.Rani Real Estate Agencies,
Rep. by its Prop. K.Devasagayam,
No.2/11, Main Road, United India Nagar,
Kodambakkam, Chennai – 600 024.

.. Respondents

Prayer in C.M.P.No.13420 of 2023: This Miscellaneous Petition is filed under Section 148 of CPC, praying to extend the time for 8 weeks, permitting the 5 members of the petitioner's Association to deposit the additional sale consideration as ordered in above A.S.No.266 of 2007 as per the entitlement of the land holdings which is elaborately stated in the Annexure and filed along with this application.

For Petitioner : Mr.V.Srikanth

For R15 : Mr.J.Raja Kalifullah
Senior Counsel
for Mr.Jayendrkrishnan

COMMON ORDER

C.M.P.No.16741 of 2021 is filed seeking to permit the petitioner



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society to collect the additional sale consideration from the members pursuant to the decree in A.S.No.266 of 2007 without the intervention of any member or members of the 15th respondent Association by extending the time.

2.By an order dated 07.03.2023, this Court has passed the following order:-

“The above civil miscellaneous petition is filed by the Selliamman Koil Co-operative House Site Society Limited through its President who is the 1st respondent in A.S.No.266 of 2007.

2.The learned counsel for the petitioner submitted that Thanthai Periyar Nagar Welfare Association is the 15th respondent in C.M.P.No.16741 of 2021. The learned counsel submit that as per the decree passed in the appeal, the purchaser had deposited the balance of sale consideration amount before the learned Additional District Judge, Chennai, Fast Track Court II.

3.Recording the same, the Registrar, City Civil Court, is directed to offer his remarks regarding the deposit of the amount as per the decree passed in A.S.No.266 of 2007 and the remarks shall be submitted to this Court on 15.03.2023.

4.Post the matter on 15.03.2023.”

3.On 26.04.2023, this Court has passed an order that the remarks of the



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Registrar, City Civil Court is received by this Court. As per the remarks, a sum of Rs.9,48,56,987/- was deposited amount for 154 persons and hence, the matter was adjourned. On 10.04.2023, it was recorded that they have to deposit a sum of Rs.11,24,60,800/-. However, only a sum of Rs.48,56,987/- was collected and deposited.

4.A.S.No.266 of 2007 was filed by K.Gopalsamy Chetty and 13 others against the Selliamman Koil Co-operative House Site Society and Thanthai Periyar Nagar Welfare Association and Rani Real Estate Agency. The Selliamman Koil Co-operative House Site Society and Thanthai Periyar Nagar Welfare Association have filed suit in O.S.No.13877 of 1996 for specific performance and the suit was decreed. The plaintiff is the Selliamman Koil Co-operative House Site Society and the defendants 1 to 4 have entered into a sale agreement with the 5th defendant Rani Real Estate Agency. The 1st plaintiff is the Selliamman Koil Co-operative House Site Society and the 2nd plaintiff is the Thanthai Periyar Nagar Welfare Association have filed suit in O.S.No.13877 of 1996 directing the defendants to execute the sale deed based upon the sale agreement dated 19.06.1978 on the receipt of balance of the sale



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consideration. It appears that by order dated 10.07.1986 Application No.1807 of 1986 was allowed, whereby the 2nd plaintiff was added as a party when the matter was pending for trial.

5(a).Admittedly, the agreement is with the 1st plaintiff and 5th defendant along with the defendants 1 to 4. The suit was decreed and hence, the private defendants have filed appeal in A.S.No.266 of 2007 and the same was dismissed on 25.01.2019 confirming the judgment of the Trial Court whereby the Trial Court decree is modified and the defendants are directed to deposit the additional amount of Rs.11,24,60,800/-.

5(b).Thereafter in C.M.P.No.25705 of 2019 by an order dated 12.12.2019 filed at the instance of the Thanthai Periyar Nagar Welfare Association, the 2nd plaintiff in the suit, this Court has permitted the members of the Welfare Association to deposit the sale consideration as per their entitlement and holdings as per the enclosure filed with the application. Thereafter, the present application is filed.



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6.C.M.P.No.16741 of 2021 filed by the Selliamman Koil Co-operative House Site Society seeking permission to collect the additional sale consideration from the members without intervention of any member or the Thanthai Periyar Nagar Welfare Association by extending the time. So also the Thanthai Periyar Nagar Welfare Association, the 2nd plaintiff in the suit also filed C.M.P.No.13240 of 2023 seeking permission to extend the time by eight weeks permitting five members of the Thanthai Periyar Nagar Welfare Association to deposit additional sale consideration as per their entitlement.

7.Heard the learned counsel on both sides in both the petitions.

8.Admittedly the agreement is between the Selliamman Koil Co-operative House Site Society, the 1st plaintiff, who is the petitioner in C.M.P.No.16741 of 2021. Pending the dispute, they only filed suit for specific performance and succeeded in their attempt in the Civil Suit. The allottees have formed themselves as Thanthai Periyar Nagar Welfare Association and hence, they have added as the 2nd plaintiff. Now, the Thanthai Periyar Nagar Welfare Association seeks time for permitting the members to pay the



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compensation and deposit the amount.

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9. Admittedly, there is no privity of contract between the original land owner and the petitioner in C.M.P.No.13420 of 2023. No doubt true that the petitioner in C.M.P.No.13420 of 2023 is a co-plaintiff. But, they have been impleaded as a formal party and however, as the Co-operative Society, petitioner in C.M.P.No.16741 of 2021, which is a registered Society governed by the Societies Act and monitored by the Government. Having the interest in development of the land and allotment of the land to the members of the Society and having filed the suit, paid the Court fee and contesting the case both before the Trial Court and before the Appellate Court, obtained relief for the members and hence, I find that C.M.P.No.13420 of 2023 has no *locus standi* and nor they can seek any relief as they sought for under Section 148 of CPC. Thus, the petition in C.M.P.No.13420 of 2023 is devoid of merits and is liable to be dismissed and is accordingly dismissed.

10. Taking into consideration the order passed in A.S.No.266 of 2007 and subsequent order of modification by the learned Judge of this Court in C.M.P.No.4313 of 2020 dated 20.02.2020 and in C.M.P.Nos.6806 of 2020



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and 5299 of 2021, further time extensions have been granted and the relief sought for by the Selliamman Koil Co-operative House Site Society, the petitioner in C.M.P.No.16741 of 2021, in the interest of justice is allowed. The petitioner in C.M.P.No.16741 of 2021 is permitted to collect the additional sale consideration from the members without intervention of any member or the members of the 15th respondent Association and the time is extended by twelve (12) weeks.

11. Accordingly, C.M.P.No.16741 of 2021 is allowed and C.M.P.No.13420 of 2023 is dismissed.

29.04.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

RMT.TEEKAA RAMAN, J.

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