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OSA (CAD) No.63 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.06.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **K.GOVINDARAJAN THILAKAVADI**

O.S.A. (CAD) No. 63 of 2022
and
C.M.P.No. 8463 of 2022 in O.S.A. (CAD) No.63 of 2022

M/s.Ramaniyam Real Estate Pvt. Ltd.,
rep. By its Managing Director
V.Jagannathan,
Door No.17/35, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai – 600 020.

.. Appellant

Vs

1.Gunda Ramani
2.K.Rangavalli
3.Pathi Lakshmi Kiran
4.Karthick Chander

5.The Sub Registrar,
Sub Registrar-Adyar,
Kamaraj Avenue 2nd Street,
Adyar, Chennai – 600 020.

.. Respondents

Appeal filed under Clause 15 of Letters Patent read with
Order XXXVI Rule 9 of Original Side Rules against the order and
decretal order dated 22.06.2021 in O.A.No.111 of 2021 in
C.S.No.68 of 2021.



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For Appellant : Mr.S.Sundaresan
For Respondents : Mr.V.Raghavachari,
Sr. Counsel
for Mr.SK.Rahul Vivek for R1 to R4
Mr.C.Selvaraj,
Addl. Govt. Pleader for R5

JUDGMENT

(Judgment of the Court was delivered by **M.Sundar, J.**)

This common order will now dispose of the captioned main 'Original Side Appeal' (hereinafter 'OSA' for the sake of brevity) and captioned 'Civil Miscellaneous Petition' (hereinafter 'CMP' for the sake of brevity) thereat.

2. In the hearing before us, Mr.S.Sundaresan, learned counsel for appellant in OSA/petitioner in CMP, Mr.V.Raghavachari, learned senior counsel appearing on behalf of Mr.SK.Rahul Vivek, counsel on record for contesting respondents 1 to 4 and Mr.C.Selvaraj, learned Additional Government Pleader for official respondent i.e., R5/ jurisdictional Sub Registrar are before us. To be noted, State counsel is only a formal party as State is not a party to the litigation.



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3. After hearing the matter for some time, learned counsel for appellant and learned senior counsel for respondents 1 to 4 took a very fair approach to the matter and therefore it is really not necessary to set out facts in great detail. Factual matrix in a nutshell i.e., short facts shorn of elaboration or in other words, short facts imperative for appreciating this simple order will suffice.

4. Short facts are that the appellant company before us filed a specific performance suit being C.S.No.68 of 2021 on the file of the Original side of this Court with a specific performance prayer qua 3/5 undivided share in a 'property at Old Door No.66, New Door No.87, Present Door No.2,4th Main Road, Gandhi Nagar, Adyar, Chennai – 600 020' (hereinafter 'suit property' for the sake of convenience and clarity); that the four private defendants have filed written statement and completed pleadings; that fifth defendant is jurisdictional Sub Registrar and as already alluded to supra, D5 is not a party to the lis and is only a formal party; that pending suit, plaintiff/appellant took out an application in O.A.No.111 of 2021 with a prayer for injunction qua alienation as regards suit property; that initially interim injunction was granted but after contest another Hon'ble Single Judge in and by an 'order dated 22.06.2021' dismissed the injunction application (hereinafter 'impugned order')



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for the sake of convenience and clarity); that assailing the impugned order, the plaintiff in the suit on the file of the Original Side of this Court, has preferred the captioned appeal; that as already alluded to supra, learned counsel on both sides took a fair approach and agreed for expediting the disposal of the main suit and further agreed to maintain status quo as of today (to be noted both sides to maintain status quo as of today i.e., plaintiff as well as defendants); that we now proceed to make the following order, the details of which are set out infra i.e., an order by consensus.

5. In the light of the narrative thus far, the following order is made:

5.1 As pleadings are complete suit will be listed on the Original Side of this Court for framing issues on Friday i.e., 14.06.2024 and both sides agree to complete this exercise by 28.06.2024;

5.2 Mr.V.Paul Das (retired Sub Judge), residing at No.82/106, Perambur High Road Lane, Jamalia, Chennai – 600 012 (Mobile No.9443494445) is appointed as Commissioner for recording evidence;



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5.3 Learned Commissioner will not have any adjudication powers and this means that if there is any objection to marking of any document or any other objection qua deposition or marking of exhibits same shall be recorded and a final call on the same will be taken by the Hon'ble Single Judge after the exercise of recording deposition and marking documents is completed;

5.4 The aforementioned exercise i.e., recording deposition and marking exhibits shall be commenced on 01.07.2024 and completed as expeditiously as possible but in any event by 31.07.2024;

5.5 Remuneration of Mr.V.Paul Das is fixed at Rs.1,50,000/- to be borne in equal moieties by the plaintiff on one side and all the defendants put together on the other side, the fifth defendant is excluded from these two moieties as it is only a formal party;

5.6 Learned Commissioner is requested to send the recorded deposition and exhibits in a sealed cover to the Hon'ble Judge (through learned Registrar General of this Court) on the Original Side who is requested to decide the matter as expeditiously



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as the business of the Court would permit;

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5.7 As already alluded to supra, both sides i.e., plaintiff and defendants 1 to 4 shall maintain status quo as of today not only with regard to alienation of suit property but in all other aspects which would impact the lis.

5.8 The fifth defendant/official respondent is directed to take note of this order and ensure strict compliance.

6. Captioned OSA and captioned CMP are disposed of in the aforesaid manner and we place on record our appreciation to learned counsel on both sides for the fair approach. There shall be no order as to costs.

(M.S.J.) (K.G.T.J.)
11.06.2024

Index:Yes/No
Neutral Citation: Yes/No
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P.S. I: *Upload forthwith*

P.S.II : *All concerned including the Registry of Madras High Court to act forthwith on the uploaded soft copy of this proceedings as uploaded in the official website of this Court. To be noted, the soft copies uploaded in the official website of this Court are water*



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marked, besides being QR Coded.

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To

- 1.The Sub Registrar,
Sub Registrar-Adyar,
Kamaraj Avenue 2nd Street,
Adyar, Chennai – 600 020.
- 2.The Sub Assistant Registrar,
Original Side, High Court,
Madras.



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**M.SUNDAR.J.,
and
K.GOVINDARAJAN THILAKAVADI, J.,**

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