



C.R.P.No.1418 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :17.06.2025

CORAM:

THE HON'BLE MR. JUSTICE P.B. BALAJI

CRP No.1418 of 2024 and CMP No.7579 of 2024

1.Arun Malhotra
2.Shikha Malhotra
3.Harsh Malhotra
4. M/s Satya Surendra Developers
A Partnership Firm,
Rep by its Managing Partner Harsh Malhotra,
No.240, Zone – 1, M.P.Nagar,
Bhopal-462011, Madhya Pradesh

... Petitioners

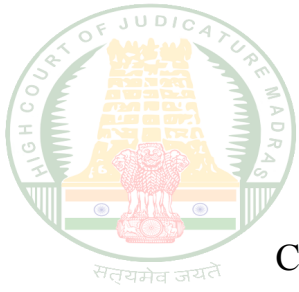
VS

1.M/s RAMANIYAM REAL ESTATES PVT LTD.,
Rep by its Managing Director,
V.Jaggannathan,
17/35, 2nd Main Road, Gandhi Nagar, Adyar,
Chennai-600 020.
Now changed to:14/67, 3rd Main Road,
Gandhi Nagar, Adyar, Chennai-600 020.

2. The District Registrar,
Office of the District Registrar of Registration,
Saidapet, Chennai-600 015.

3. The Joint Sub Registrar-I,
Saidapet, Chennai-600 015.

... Respondents



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Civil Revision Petition filed under Section 227 of Civil Procedure Code against the impugned order dated 16.10.2023 passed in I.A.No.4 of 2023 in O.S.No.3300 of 2023 on the file of V Assistant City Civil Court, Chennai.

For Petitioners : Mr.Prahalad K.Bhat

For Respondents : Mr.D.Gopal
Govt.Advocate
For R.2 and R.3
R.1 – No appearance

ORDER

The petitioners are the defendants in a suit filed for permanent injunction by the first respondent herein in O.S.No.3300 of 2023 before the V Assistant City Civil Court, Chennai.

2. The said suit has been filed by the first respondent as against the official respondents 2 and 3/ defendants 1 and 2 and private defendants 3 to 5 /revision petitioners herein. The relief sought for in the suit is as follows:-

“It is therefore prayed that this Honourable Court may be pleased to pass a Judgment and Decree against the Defendants 1 and 2 not to entertain any documents with reference to the suit schedule property from the Defendants 4 to 6 or any other persons claiming through or under them till the investigations of Police are over



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without notice to the Plaintiff and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

3. The first respondent/plaintiff despite service of notice in the above revision, has not come forward either in person or through counsel. Mr.D.Gopal, learned Government Advocate takes notice for the official respondents/respondents 2 and 3 and the first respondent is called absent and set exparte. I have proceeded to hear the learned counsel for the revision petitioners.

4. Learned counsel for the revision petitioners would take me through the plaint averments and allegations and more so, the relief sought for by the first respondent in the suit in O.S.No.3300 of 2023. Learned counsel would contend that the first respondent/plaintiff did not have any interest in the suit property, in respect of which, the third defendant, who is the first petitioner in this revision, as duly constituted power of attorney agent from the lawful owners entered into joint venture agreement with the first respondent/plaintiff. Learned counsel would state that there is absolutely no



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cause of action for filing the suit for seeking the relief as prayed for in the said suit.

5. Learned counsel would also invite my attention to the decision of this Court in *Ramiah Asari vs Tmt.Kurshad Begaum and another* reported in **1999 (I) CTC 600**. Learned counsel for the petitioner would challenge the findings of the trial Court, dismissing the application filed under Order VII Rule 11 of Civil Procedure Code on the ground that triable issues arise for consideration and a case has not been made out under Order VII Rule 11 of Civil Procedure Code and that suit has to be necessarily tried on merits.

6. It is seen from the plaint averments and allegations that the plaintiff has not filed any suit for specific performance to enforce the agreement of sale with the third defendant, who is only the authorised agent, which, according to the learned counsel for the petitioners, is for consideration. Learned counsel states that the agreement between the original owners and the third defendant is coupled with interest and only in order to promote the property, a joint venture agreement was entered into by the third defendant with the plaintiff and no relief has been sought for under the Specific Relief



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Act as on date. However, the plaintiff has chosen to file a suit for bare injunction to restrain the defendants who themselves are not true owners.

Further, when the plaintiff has given up his substantial right to seek for specific performance, it will not open to the plaintiff to seek a bare injunction relief to restrain registration of documents which clearly impedes the right, title and enjoyment of the lawful owners of the subject property.

7. This Court in **Ramiah Asari's** case has held that when the plaintiff comes to court seeking relief and it is seen that the plaintiff has no cause of action for instituting the suit or *locus standi* for filing the same, the plaint will have to be necessarily rejected. This Court relied on the decision of Hon'ble Supreme Court in **K.K.Modi vs K.N.Modi** reported in **1998(3) SCC 573**, where the Hon'ble Supreme Court referring to the phrase “abuse of process of court” held that the Court has to prevent improper use of its machinery and will in a proper case, summarily prevent its machinery from being used as a means of vexation and oppression in the process of litigation.

8. In the light of the above discussions, when the first respondent/plaintiff has precluded himself from seeking larger relief of



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specific performance, by filing a suit for bare injunction and admittedly not taking leave of the Court under Order II Rule 2 of Civil Procedure Code and even *de hors* such leave, no suit has been filed within the period of limitation, the plaintiff cannot maintain a suit for bare injunction, that too against the Agent and Developers who had entered into an agreement with the lawful owners of the suit property.

9. Moreover, the relief sought for in the plaint cannot be granted as the true owners are not even made parties to the suit and defendants 4 to 6 who themselves are agreement holders and the third defendant is only a power agent coupled with interest.

10. In the light of the above, applying the ratio laid down by this Court in ***Ramiah Asari vs Tmt.Kurshad Begaum and another*** reported in **1999 (I) Ctc 600**, I find that the plaintiff has no interest in the suit property and no cause of action is available for instituting suit for the relief of permanent injunction as prayed for. The suit does not disclose a cause of action and the trial court fell in error in rejecting the application filed under Order VII Rule 11 of Civil Procedure Code.



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11. In the result, the order passed in I.A.No.04 of 2023 in O.S.No.3300 of 2023 dated 16.10.2023 is set aside and the plaint in O.S.No.3300 of 2023 is rejected and the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

17.06.2025

sr

Index:yes/no

Website:yes/no

Speaking order/Non-speaking order

To

V Assistant City Civil Court, Chennai.



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P.B.BALAJI.,J.

sr

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