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A NO. 2971 of 2025
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04-08-2025**

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THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

A Nos. 2971 & 2972 of 2025

in

C.S.No.144 of 2025

Mr. P.N. Vaidyanatha Iyer AND 3 others
S/o.P.V.Narayan Iyer, Sreeranjini House, KMCNo,
XI 193, Malloosery PO, Perumbaikkadu,
Kottayam Taluk, Kottayam District, 686041,
Kerala and 3 Others

Applicant(s)

Vs

Mr. S. Ramachandran adn 3 others
S/o.Seetharaman, S-3, Door.No.168/64C, South
Sivan Road Street, Kodambakkam, Ch-24 and 3
Others

Respondent(s)

For Applicant(s):

Mr.Sudharshana Sunder
(in both applications)

For Respondent(s):

No appearance (For R1 to R3)
(in both applications)

Mr.Ameedius (Government Advocate)
(For R4) (in both applications)

COMMON ORDER

The application in A.No.2971 of 2025 has been filed to appoint an
Advocate Commissioner to inspect the suit schedule property, morefully



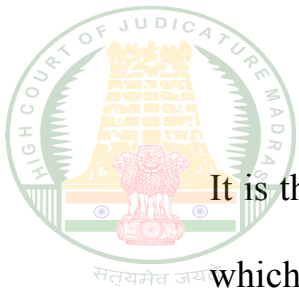
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described in the schedule hereunder and report to this Hon'ble Court the stability structure and condition of the suit property and the structures standing thereon and its present condition and its occupants, pending disposal of the above suit.

2. The application in A.No.2972 of 2025 has been filed to order attachment of the suit schedule property to the value of the suit claim and duly intimate the 4th respondent – The Sub Registrar of the concerned jurisdiction to enter the order of attachment of this Hon'ble Court in his books of encumbrance pending disposal of the above suit.

3. In spite of entering appearance, the respondents 1 and 2 have not chosen to file their counter affidavit. Notice on the third respondent, had been served and their names are also reflected in the cause list. They have neither appeared in person nor through any counsel. They are called absent and set *ex parte*.

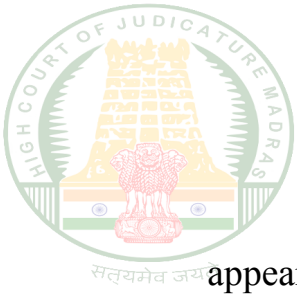
4. The learned counsel appearing for the applicant would submit that the suit had been filed for recovery of money that had been paid by the applicants, upon which the suit schedule properties were transferred to them.



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It is their case that in the sale deed, the survey numbers were wrongly given, which would not give them title to the property and in the interregnum, the first and second defendants have also cancelled the Power of Attorney executed in favour of the third defendant. The respective flats were not handed over to the applicants. Hence, in respect of the consideration paid, there is a charge created over the property and if the property is dealt with in the meantime, it would affect the interest of the applicants. Hence, the learned counsel for the applicant seeks an order of attachment from this Court, which shall also be reflected in the records of the 4th respondent as an Encumbrance over the property. The learned counsel for the applicant would further submit that the building, which was sought to be constructed is incomplete and also in a dilapidated condition. Therefore, it would be appropriate to appoint an Advocate Commissioner, who, with the assistance of an engineer, shall inspect the building and submit a report.

5. The learned Government Advocate appearing for the 4th respondent would submit that if an order of attachment is passed, the same would be reflected in the Encumbrance certificate.



6. I have considered the submissions made by the learned counsel appearing on either sides.

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7. The property belonging to the defendants 1 and 2 was sought to be developed by the third respondent. On the strength of the power of attorney, he had executed sale deeds in favour of the applicants and they had also entered into a Joint Development Agreement over the property. The claim of the applicants is that under the sale deed, the property had been wrongly described and therefore the suit schedule property had not actually been conveyed to them. It is not in dispute that in the suit schedule property, an apartment was constructed and is not completed as of date. Hence, in order to protect the interest of the applicants, this Court is of the view that both the applications can be ordered as prayed for.

8. In fine, there shall be an order of attachment of the suit schedule property mentioned in the Judge's Summons Schedule, which shall also be reflected in the records of the fourth respondent and both the applications are ordered as prayed for.



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9. Mr.M.Chandru, Advocate, King and Partridge, IInd Floor Catholic Centre, No.108, Armenian Street, Chennai – 600 001 (Mobile No:9444453357) is appointed as Advocate Commissioner, who shall, with the assistance of a registered Engineer, inspect the suit property and file a report with regard to its structure and its stability.

10. The Advocate Commissioner would be entitled for an initial remuneration of Rs.25,000/- (Rupees Twenty Five Thousand only), apart from the expenses incurred by him, including the charges for the Engineer, which shall be borne by the applicants.

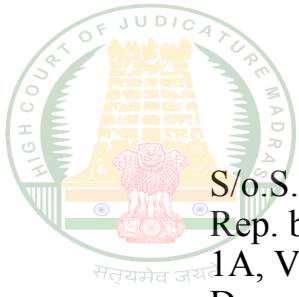
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Note: Registry is directed to issue necessary warrant by 07.08.2025.

To

1. Mr. S. Ramachandran and 3 others
S/o.Seetharaman,
S-3, Door.No.168/64C, South Sivan Road Street,
Kodambakkam, Ch-24
2. Sujatah Ramachandran
W/o.S.Ramachandran,
S-3, Door.No.168/64C, South Sivan Road Street,
Kodambakkam, Ch-24
3. Sundhar Bharadwaj



S/o.S.Subramanian,
Rep. by Aditya Heritage Builders,
1A, Vinayaka Aprtments,
Door.no.34, Warren Road,
Mylapore, Ch-4

4. The Sub Registrar
Sub Registrars Office,
No.9, Kavignar Bharathidasan Road,
Seethammal Colony, MIG Colony,
Alwarpet,
Ch-18



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K.KUMARESH BABU, J.

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