



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2025

CORAM

THE HON'BLE DR.JUSTICE R.N.MANJULA

A No. 4844 of 2025 in

C.S.No.312 of 2011

Purasawakam Santhatha Sanga Nidhi Ltd.,
Rep. By Its Director
Mr.M.Dillibabu, No.47, Vellala Street,
Purasawalkam, Chennai-600 084.

..Applicant / Plaintiff

Vs

1. P.Kasthuri
W/o.Late S.Padmanabhan, No.47, Vallabha
Ganapathi Street, Sri Venkatesa Perumal Nagar,
Valasaravakkam, Chennai 600 087.
2. Mr.P.L.N.Vijayan
S/o.Late S.Padmanabhan, No.47, Vallabha
Ganapathi Street, Sri Venkatesa Perumal Nagar,
Valasaravakkam, Chennai 600 087.
3. Vaishnavi Priya
D/o.Late S.Padmanabhan.

..Respondents /
Defendants

PRAYER : To pass another preliminary decree ratify the sale of the suit property through public auction held on 20/05/2023, under Sec.69 of Transfer of Property Act, 1882, through a Sale Deed dated 26/10/2023 executed by the Applicant/Plaintiff herein in favour of one Mr.P.Narayanasamy under Document No.8486/2024 on the file of SRO, Virugambakkam, Chennai.



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For Applicant(s) : Mr.J.Nandagopal

For Respondent(s) : Mr. S.VENKATESAN

ORDER

The applicant / plaintiff / decree holder has filed this application to pass another preliminary decree to ratify the sale of the suit property through public auction held on 20/05/2023, under Sec.69 of Transfer of Property Act, 1882, through a Sale Deed dated 26/10/2023 executed by the Applicant/Plaintiff herein in favour of one Mr.P.Narayanasamy under Document No.8486/2024 on the file of SRO, Virugambakkam, Chennai.

2. The only objection that was raised by the respondents / Judgment Debtors is that the preliminary decree has already been challenged by way of filing an Original Side Appeal which is yet to be numbered. His further contention is that the decree holder has given a sale notice in the name of the dead person who is a main borrower. The main borrower is said to be the father of the defendants 2 and 3. The father of the defendants 2 and 3 is not a party to the suit in C.S.No.312 of 2011.

3. As such, there is no order of stay to stop the operation of the preliminary decree passed on 07.06.2024 or any further proceedings that would have arisen out of the same. However, it is submitted that the sale deed has been



executed by the plaintiff in favour of the purchaser even before the decree has been passed. That was not denied by the decree holder also and the sale deed would show that it is dated 15.09.2023. In fact, even when the suit was pending, the respondents have filed an application in A.No.126 of 2023 praying for the relief of ad-interim injunction restraining the plaintiff from interfering with the applicant's peaceful possession and enjoyment of the suit property in any manner dealing, alienating or disposing. When the suit was disposed, the above application was also closed.

4. On perusal of the order dated 07.06.2024, the Court has granted time to the defendants to deposit a sum of Rs.5,63,07,523.25/- along with cost, on or before 07.09.2024. The failure of the defendants to make the above payment would entitle the decree holder to bring the property for sale in compliance of Section 69 of Transfer of Property Act. But, it is learnt that the sale has been concluded even prior to the expiry of time granted to the defendants, (i.e.,) 07.09.2024. In fact, that is exactly the reason why the applicant / plaintiff appears to have moved an application seeking ratification of the same.

5. The respondents would have got a strong sale, had they paid the amount of Rs.5,63,07,523.25/- atleast subsequent to the decree dated 07.06.2024 before expiry of the time limit granted till 07.09.2024 and claim that



the sale is not valid. On the part of the applicant / plaintiff, there appears an urgency and on the side of respondents / defendants, there appears a lethargy in settling the amount due to the plaintiff.

6. The respondents have not even ensured that the Appeal filed by them challenging the order dated 07.06.2024 be admitted in time. Till now, it is the representation of the learned counsel for the respondents that the Original Side Appeal is in SR stage. As such, there is nothing to stop the operation of the decree dated 07.06.2024 passed in favour of the applicant / plaintiff.

7. The next point is that during the sale proceedings, notice has been issued against the dead person. But the said person is not a party to the proceedings and he is no more and it is not the contention of the respondents that they are not the legal heirs of the deceased owner of the property. At the time when the sale was brought, these defendants as legal heirs have inherited the property and they had also suffered a decree binding upon them.

8. In fact the respondents have also filed a suit in O.S.No.10152 of 2009 before the V Assistant City Civil Court for redemption. In fact an order has been passed on 23.09.2021 to transfer that suit and try it along with the suit in C.S.No.312 of 2011. Even, that has not happened.



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9. In these confused circumstances, the ratification cannot be given as prayed. However, the applicant is at liberty to bring the sale of the suit property in pursuant to the preliminary decree already passed. As recorded already, the defendants did not pay the decree amount as assured, before the dead line (i.e) 07.09.2024. But it is for the plaintiff to face the consequences of the earlier sale proceedings initiated by him before the decree is obtained.

10. In the event of very same bidder in whose favour the earlier sale has been confirmed, comes forward and participates in the sale proceedings that might be initiated by the decree holder and he happens to be a successful highest bidder, then the sale proceeds already paid by him can be appropriated against the sale amount for which the property had been sold in the public auction or otherwise the applicant atleast has to return the sale proceeds to said bidder and no further orders can be passed in respect of the sale deed, if any, executed in favour of the third party or about its validity or invalidity in the absence of the said third party being a party.

11. With these observations, this Application is disposed.



A No. 4844 of 2



30-10-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSK



To

1. P.Kasthuri And 2 Others

W/o.Late S.Padmanabhan, No.47, Vallabha
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DR.R.N.MANJULA, J.

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