Order QR

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 30-10-2026**

CORAM

**THE HON'BLE MR JUSTICE N. SATHISH KUMAR**

**AND**

**THE HON'BLE MR.JUSTICE GK.MUTHUKUMAAR**

**OSA No. 41 of 2024 and CMP.No.5789 of 2024**

*CNR: {HCMA010450152024}*

1. A.Balachandran (deceased)
   S/o.late A.S.Arulanandam, Flat No.1, Schofield Place, No.5, Ranjith Road, Kotturpuram, Chennai 85.
2. B. Sheba Kousalya
3. B. Vinek Samson
4. N. Samantha Sarah Jesudas
   Appellants 2 to 4 brought on record as LRs of deceased A1 viz (A.BALACHANDRAN) vide court order dt. 26.10.2026 made in CMP.10319 of 2025 IN OSA No.41 of 2024 (NSKJ and GKMJ)

..Appellant(s)

Vs

Rajamani Vancheeswaran

..Respondent(s)

Original Side Appeal filed under Order XXXVI Rule 1 of OS Rules read with Clause 15 of Letters Patent to set aside the fair and decreetal order dated 11.12.2023 passed in Appln No. 4829/2013 in CS.No.167/2007.

For Appellant(s): Mr.T.S.Baskaran
For Respondent(s): No appearance

**JUDGMENT**

**(Judgment of the Court was delivered by N.Sathish Kumar J.)**

Challenging the order of the learned Single Judge allowing the application in A.No.4829 of 2013, the present appeal has been filed.



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2. Originally, the respondent has filed three applications in A.Nos.4827 to 4829 of 2013. A.No.4827 of 2013 has been filed by the applicant, to direct the defendant to furnish proof of records and render accounts for the amounts collected mentioned in the affidavit. A.No.4828 of 2013 has been filed by the applicant, to permit the applicant to pay the electricity bills directly. A.No.4829 of 2013 has been filed by the applicant, to permit the applicant to deposit the amounts for the bills raised by the respondent/defendant. All these applications have been filed in a suit filed by the respondent for specific performance. According to the respondent, she is in possession of the property pursuant to the agreement dated 05.02.2004 as she has parted huge amount of Rs.38 lakhs out of the total sale consideration of Rs.42 lakhs. The suit is also proceeded substantially. PW1 was examined and exhibits are also marked. At this stage, applications have been filed on the ground that some other litigations are pending and according to the plaintiff, since the land owner/vendor has not furnished the proper accounts, she is not in a position to pay the maintenance directly. The learned Single Judge allowed all the applications directing the appellants to furnish the records and also permitted the respondent to deposit maintenance amount in the credit of suit. Challenging the order in A.No.4829 of 2013 permitting the plaintiff to deposit the maintenance amount in the credit of suit, the present appeal is filed.

3. The learned counsel for the appellants submitted that the suit is only for enforcing the contract. Admittedly, the respondent is in possession of one of



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the plot and the remaining 3 plots are in possession of the vendors in view of the impugned order, the appellants will have to bear the expenses for maintenance of four plots and hitherto maintenance have been properly paid by the plaintiff directly whereas, now she has filed an application which is noway related to the suit itself. Further, would submit that the appellants are ready to furnish the accounts regarding the maintenance and since they require money every month for paying the maintenance, the impugned order directing the plaintiff to deposit to the Court will cause prejudice.

4. Heard the learned counsel for the appellants and perused the materials placed on record. Despite the names being printed in the cause-list, there is no representation for the respondent.

5. In light of the above, now the point that arises for consideration in this appeal is whether the order of the learned Single Judge directing the plaintiff to deposit the maintenance amounts to the credit of suit is in order?

6. The suit itself is filed for enforcing the contract dated 05.02.2004. It is not in dispute that the plaintiff is in possession of one of the plot which is the subject matter of the suit and the remaining three plots are still under the control of vendors and the vendors are hitherto paying the electricity charges as well as maintenance. It is also not in dispute that the suit is in half-way through and these applications have been filed by the plaintiff. We are of the view that the impugned application and the relief of the suit is no way connected to the suit, after-all, the suit is filed to enforce the contract. Be that as it may, the learned


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counsel for the appellant submitted that the appellants are ready to furnish the accounts; the maintenance amount as required for every month have been paid regularly by the plaintiff directly all these years, therefore the same has to be continued till the disposal of the suit, if the amount is deposited to the credit of the suit, it will cause further delay in taking the application for payment out and it will cause prejudice to the owners in bearing the maintenance charges.

7. Considering all these aspects, the very filing of the impugned application in a specific performance suit itself cannot be permitted. Admittedly, the plaintiff is in possession of the property and she has also stated that she is paying the amounts; the only grievance expressed by her is that the account is not properly furnished and now the appellants are also willing to furnish the accounts. In such view of the matter, let the appellants furnish the accounts every month regularly. On furnishing the accounts, the respondent/plaintiff shall pay the maintenance amounts directly to the party.

8. With the above, the order of the application in A.No.4829 of 2013 is modified and the appeal stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

**(N.S.K.,J.)  (G.K.M.,J.)**
**30-10-2026**

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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**N.SATHISH KUMAR, J.**
**AND**
**GK.MUTHUKUMAAR, J.**

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**OSA No. 41 of 2024**

**30-10-2026**



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