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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

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

A No. 3375 of 2026
in
O.P.No.129 of 2019

1. Mrs.K.Malleeswari
   W/o.R.Krishnamohan,

2. R.Krishnamohan
   S/o.Late Radhakrishnan

..Applicant(s)

Vs

M/s.Noor Mohamed Trust
237, Angappa Naicken Street,
Chennai-1. Rep. by its Trustees
1) E.Yacoob
S/o.Mohamed Ibrahim
No.53, Malaiyappan Street
Mannady, Chennai-1.

2) A.N.Safikur Rahman
No.237, Angappa Naicken Street
Chennai-1.

..Respondent(s)

Application filed under Order XIV Rule 8 of Original Side Rules read with Section 151 of the Code of Civil Procedure, 1908 to issue suitable directions to the said 1st Respondent Mr.Yacoob in O.P.No.129 of 2019 to receive the sale consideration and forthwith execute the said deed in favour of applicants.

For Applicant(s): Mr.V.Kannan

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For Respondent(s): M/s.S.Krishnasamy

ORDER

Heard the learned counsel for the third party applicants, Mr.V.Kannan and Mr.S.Krishnasamy, learned counsel appearing for the respondent Trust.

2. Mr.V.Kannan, learned counsel for the applicants states that the applicants are third parties, who had entered into an agreement of sale on 26.04.2017 with the respondent Trust, then being represented by two of its trustees. The learned counsel also invited the attention of this Court to the copy of the agreement that has been enclosed in the typed-set of papers and would contend that out of the agreed sale consideration of Rs.40 lakhs, the applicants have already parted with Rs.11 lakhs and they have also been put into constructive possession, including permission being granted to collect rents from tenants who were in occupation of the subject premises. The learned counsel further states that the property originally, in fact, was belonging to the applicants and thereafter it was sold to the Trust and the agreement dated 26.04.2017 is only an agreement in the nature of reconveyance/repurchase. The learned counsel also states that the applicants have been always ready and willing to pay the balance sale consideration and conclude the transaction. He would also invite my attention to the order passed in O.P.No.129 f 2019 by this Court, granting permission to sell the property.

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3. The application was filed at the instance of the respondent Trust being represented by then existing trustees, namely Mr.Yacoob and Safikur Rahman. Admittedly, the said Safikur Rahman died subsequently on 01.12.2019 and the other two trustees also passed away leaving Yacoob as the only surviving trustee. In view thereof, there have been family discussions and arrangements, pursuant to which the Board of the respondent Trust has been reconstituted amongst the other family members and now the respondent trust is represented by its Managing Trustee Ms.Barakathneesa.

4. The learned counsel for the applicants further stated that even the said Barakathneesa has received a part of the sale consideration from the applicants. The learned counsel would, therefore, submit that there would not be any impediment for permission being granted to sell the property to the applicants, which is only in pursuance of the orders passed in the above Original Petition on 17.09.2019.

5. The learned counsel for the applicants also relies on the recent judgment of the Hon'ble Supreme Court in ***K.S.Majunath and Others Vs. Moorasavirappa @ Muttana Chennappa Batil, since deceased by his LRs and Others,*** reported in ***2026 1 MLJ 1 (SC),*** wherein Hon'ble Supreme Court has held that unilateral termination of the sale agreement is not permissible in law, unless and otherwise the contract itself is one in the nature of being determinable.

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6. The learned counsel for the first respondent, Mr. S.Krishnasamy would firstly contend that the present trustee was not a party to sale agreement. However, he fairly states that the then trustees, who were competent to enter into the sale agreement, had entered into a sale agreement with the applicants and had also obtained permission of this Court for selling the property. He has further stated that admittedly till date the permission granted by this Court has not been acted upon, by execution and registration of necessary sale deed in favour of the applicants. He would further state that subsequent to the reconstitution of the respondent Trust, a decision has been taken by the present trustees that the property shall not be sold and the purpose for which the sale was contemplated in 2019 does not survive as on date. It is his further submission that the only remedy for the applicants is to file a suit for specific performance and they cannot attempt a back door entry by filing this miscellaneous application in the present Original Petition, which was one for seeking permission to sell the property of the Trust.

7. Mr.S.Krishnasamy would further state that the agreement contemplated only three months for concluding the transaction and therefore, after a lapse of close to 10 years, it is not open to the applicants to now force the respondent Trust to sell the property, that too at the rate agreed in the year 2017, especially when the prices of the property has gone up multifold.

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8. At the outset, admittedly the applicants are third parties. They have entered into an agreement with the respondent Trust, which was then represented by two trustees viz., Yacoob and Safikur Rahman. The agreement contemplated conclusion of the sale transaction within a period of three months from the date of agreement for sale. Admittedly, the applicants have paid a sum of Rs.11 lakhs out of the total sale consideration agreed upon, namely Rs.40 lakhs. The applicants were also permitted to take over constructive possession of the subject property by collecting rents from the tenants. These facts are not disputed by the respondent Trust.

9. The only question that needs an answer in the present application is, whether the applicants can be given relief in the miscellaneous application that has been filed. The only available relief to redress the grievance of the applicants is to file a suit for specific performance before the Court of competent jurisdiction. The applicants have to make out a case of readiness and willingness and also have to cross the barrier of limitation by showing the Court that agreement of sale is saved by Article 54 of Limitation Act, 1963. These aspects cannot be decided in a summary manner in an application before this Court, that too in the Original Petition, which has already been disposed of, merely permitting sale of the property belonging to the respondent Trust. The judgment relied upon by the applicants was rendered in the context of a suit for

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specific performance only and therefore though the said decision is binding on me, I cannot apply the same in the present case, which is on a totally different factual matrix.

10. In the light of the above, I am unable to entertain the application and this application is dismissed. However, it is made clear that the dismissal of this application will not come in the way of the applicants moving the competent Civil Court, seeking specific performance of the agreement of sale in their favour. If any suit is filed, the Trial Court shall decide the same on its own merits and in accordance with law. There shall be no order as to costs.

30-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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P.B.BALAJI, J.

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