

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 04TH DAY OF FEBRUARY 2021

THE HON'BLE MR. JUSTICE P.RAJAMANICKAM

C.S.No.149 of 2015

Dr.R.Murali,
S/o Rengarajan,
No.2, Sowrashtra Nagar, 2nd Street,
Choolaimedu,
Chennai - 94.

: Plaintiff

Vs

1.S.Leonard Vasanth,
S/o. Soosai Marian Fernando,
No.4/10, Stone Flower Apartments,
Padmanaban Street,
Kodambakkam,
Chennai - 24.

2.Lourdes Mary Anitha Fernando,
W/o S.Leonard Vasanth,
No.4/10, Stone Flower Apartments,
Padmanaban Street,
Kodambakkam,
Chennai - 24.

*** 3.M/s Housing Development Finance
Corporation Limited,**
Rep. by its Manager,
2nd Floor ITC Centre,
760, Anna Salai,
Chennai - 2.

4.N.Edwin Jayakumar,
#G6, "Om Sakthi Apartments",
Thiruvallur Road,
1st Lane, Adambakkam,

Chennai - 600 088.

: Defendants

(* Amended as per order dated 19.06.2015 in
A.Nos.3870 to 3872 and 3918 of 2015)

This civil suit coming on this day before this court for hearing the court made the following order:-

After perusing the pleadings filed by both the parties, draft issues filed by both the parties and hearing both sides, the following issues are framed for trial.

1. *Whether the plaintiff is ready and willing to perform his part of contract as per sale agreement dated 14.12.2011?*
2. *Whether the 1st defendant is guilty of suppression of subsisting mortgage on the date of sale agreement?*
3. *Whether the plaintiff's possession of suit "A" schedule property is protected under Section 53-A of Transfer of Property Act?*
4. *Whether the sale price for purchase of schedule "C" in favour of 1st defendant was paid by plaintiff or not?*
5. *Whether the sale deed in favour of 4th defendant by 1st defendant is sham and nominal?*
6. *Whether the plaintiff is entitled to a decree of declaration that the sale deed dated 02.05.2014 executed by 1st defendant in favour of 4th defendant registered as Doc.No.4791/2014 on the file of SRO Sriperumbudur as null and void?*
7. *Whether the plaintiff is entitled to a decree of permanent*

injunction restraining the defendants from alienating the suit properties?

8. Whether the sale deed in respect of schedule of “B” and “C” in favour of 1st defendant was in lieu of sale price of suit sale agreement?

9. Whether the suit filed based on the sale agreement between the plaintiff and first defendant is valid in law when the second defendant is also owner of the suit properties?

10. Whether the time was considered as essence of contract?

11. Whether the plaintiff paid Rs.30,00,000/- as advance amount to the first defendant based on the sale agreement dated 14.12.2011?

12. Whether the suit is bad for mis-joinder of fourth defendant as a party?

13. Whether the suit is barred under Order 2 Rule 2 of CPC?

14. Whether the plaintiff is entitled to specific performance of sale agreement dated 14.12.2011?

15. Whether the plaintiff is entitled to the alternative relief of refund of Rs.1,05,00,000/- by re-conveyance of schedule “B” and “C” property by setting aside the sale deeds dated 01.03.2012 and 17.04.2012 along with a sum of Rs.30,00,000/- together with interest @ 24% from 14.12.2011 till repayment?

16. Whether unilateral cancellation of settlement deed by 2nd

defendant vide document No.2320/2013 dated 28.06.2013 is valid in

Law?

17. Whether the suit is barred against the 3rd defendant under Section 34 of SARFAESI Act?

18. To what relief the plaintiff is entitled to ?

2. Issues framed. List of witnesses in two weeks. The suit is posted for trial before Additional Master – II. The parties are directed to appear before the Additional Master – II for recording evidence on **25.02.2021**.

3. The Additional Master – II is directed to record the evidence and send back the records to the court as early as possible.

Sd/.P.R.M.J.
04.02.2021

//Certified to be a true copy//

Dated this the day of 2021.

Su.09.02.2021

COURT OFFICER(O.S.)

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.