

BEFORE THE ADDITIONAL MASTER IV,
HIGH COURT, MADRAS
C.S.No.104 OF 2022

Date: 12.06.2024
Time : 12.28 P.M.

Name : Mr. John Venkatesan (PW1)

Continuation of Cross examination by Mr. P.T. Perumal, the counsel for the defendants 3 to 5, 9 & 10.

Solemnly affirmed:

Q129: (A document is shown to the witness.) Kindly see this letter dated 13.06.2011 written by you on behalf of the plaintiff to the then Advocate of the defendants, Mr. Chandrasekaran, is it correct?

A: Yes. The letter dated 13.06.2011 written by the PW1 on behalf of the plaintiff to the then Advocate of the defendants, Mr. Chandrasekaran is marked as Ex.D4. Witness adds: This letter is sent pertaining to Ex.D1 agreement.

Q130: In this letter you have asserted that registration would be done on or before 10.07.2011, is it correct?

A: Yes.

Q131: Why it was not done?

A: The party did not accept the date.

Q132: Did you establish before them that you had enough money to execute the Ex.D1?

A: There was no sufficient money in the account on that date mentioned in Ex.D4 letter.

Q133: (Ex.P1 is shown to the witness.) Is this the document through which you have entered into the possession to the part of the suit property 2790 sq.ft?

A: Yes.

Q134: Was this executed for 11 months and renewal for further period?

A: Yes.

Q135: After the expiry of Ex.P1 rental agreement, have you renewed this agreement further?

A: Whenever I asked K. Dhananjayan, he said will do later.

Q136: Did you write any letter or any notice to him requesting to renew Ex.P1?

A: No.

Q137: As per Ex.P1, you are supposed to pay Rs.1800/- rent per month, is it correct?

A: Yes.

Q138: When did you last pay the monthly rent?

A: We paid the rent till 2021 October. But no receipt was given right from the beginning.

Q139: After October 2021, you have not paid any rent, is it correct?

A: Yes.

Q140: I put it to you that you are illegally squatting on the property without paying rent to Mr. K. Dhananjayan 1st defendant.

A: I deny. Witness adds: After October 2021 when we sent the rent, it was returned.

Q141: Is there any proof on your hand that you sought to pay but it was returned?

A: Yes.

Q142: Have you produced or can you produce the proof before this court?

A: We can produce.

Q143: I put it to you that the defendants have sent the notice to you on 23.12.2021 which you have admitted in your cross examination earlier. Where you have been requested to vacate the suit property and hand over the vacant possession. That is why rent was not taken.

A: I deny. I already stated that I never received any notice.

Q144: When you have been cross examined on 02.01.2024 for Q.Nos.79, 80 & 81 you have admitted about this notice dated 23.12.2021 and also admitted you have not sent any reply, is it correct?

A: Yes. The office copy of the notice dated 23.12.2021 along with acknowledgment card is marked as Ex.D5.

Q145: What is your regular address of residence or office?

A: No.133, Medavakkam, Tank Road, Kilpauk, Chennai – 600010.

Q146: What is the address of the suit property?

A: No.158, Strahans Road, Otteri, Chennai – 600012.

Q147: Around 19.10.2019 a letter to the plaintiff trust has been sent by the Advocates of the defendants M/s. Karthikeyan and Elisebath by registered post, in the original cover there is a note information delivered (ID 24/10/2019) and it is returned to the defendant's counsel, is it correct?

A: I have no idea.

Q148: I put it to you that in that letter the defendants have stated that you have to register the sale deed within 10 months from 07.05.2018 the date of the Ex.P2 sale agreement, it is further stated that you have never made any attempt to make the balance payment and complete the sale, further stated that the agreement lapsed on 07.03.2019, calling upon you to take the refund of the advance and hand over the vacant possession.

A: I have no idea.

Q149: Kindly take para 6(a) in the plaint, the initial advance payment was made on 11.03.2010, is it correct?

A: Yes. It is according to the first agreement.

Q150: In 6(a, b, c, d) of the plaint, you have made a payment on 26.02.2018 and other payments on various dates a total sum of Rs.1 crore, is it correct?

A: In 6(b, c, d & e) payment were made towards the new agreement on May 2018.

Q151: What was the necessity to make a payment in February 2018 for an agreement dated 07.05.2018?

A: They wanted the money before, so we paid the money.

Q152: Was there any other document signed by you and by the defendants in between 2011 agreement, 2010 agreement and 2018 agreement?

A: There was a memorandum signed between us.

Q153: Now, have you produced that 2010 sale agreement and the said MOU before the court along with the plaint in this suit?

A: No. Witness adds: When the May 2018 agreement of sale was signed the old agreement was taken back by the defendants.

Q154: In your document Ex.P2, is it stated that there were earlier payments and documents pertaining to the sale and that they were taken back by the defendants?

A: No. The 2010 agreement was not registered before the registrar's office hence not submitted.

Q155: I put it to you that when so many things have happened between 2010 and 2022 till filing of the suit, you have suppressed the earlier documents and you have suppressed the facts also in your plaint and proof affidavit.

A: I deny.

Q156: Therefore, I put it to you that you have approached this Hon'ble Court with unclean hand which disentitles you to file a specific performance suit.

A: I deny.

Q157: I put it to you that Ex.P2 sale agreement is invalid since it was not signed by the necessary parties representing the plaintiff trust. The specific performance suit filed by a public charitable trust based on such invalid documents is not maintainable in law.

A: I deny.

Q158: I put it to you that you are not administering the plaintiff trust in accordance with law and the dictates under the provision of the trust deed. The legal requirements therein to file a specific performance suit are not complied, hence this suit is not maintainable.

A: I deny.

Q159: I put it to you that there was no resolution by the board of trustees to purchase the suit schedule property and to file this specific performance suit. You ought to have made the other trustees as one of the defendants as per law. But you failed hence the suit is fatally defective and not maintainable.

A: I deny.

Q160: I put it to you that utilizing the trust fund you execute Ex.P2 sale agreement in the name of the trust. In your notice and the proof affidavit you wanted the suit schedule property to be executed in your name, this is your exploitative misconduct under the provisions of the Trust Act, so, your right under Ex.P2 sale agreement is vitiated and not to be enforced.

A: I deny.

Q161: I put it to you that you came into possession of only 2790 sq.ft out of 8063 sq.ft suit schedule property on 11.03.1992. The Ex.P1 lease deed was not renewed the rent payment was not made and using the anti social techniques you are illegally occupying the entire suit schedule property. Therefore, you are a illegal land grabber not entitled to any relief under the suit.

A: I deny.

Q162: I put it to you that the plaintiff public charitable trust executed the so called Ex.P2 sale agreement on 07.05.2018. 10 months time was fixed to complete the sale, you ought to have complete the sale within 06.03.2019. But you have failed. At no point of time, you have the minimum fund to complete the same, throughout the year 2010 to till date you have no proof of any fund either in bank or in fixed deposits. The plaintiff charitable trust never sent any mandatory notice. But the defendant sent notice D3 and D5 notice cancelling the Ex.P2 sale agreement. Therefore, the plaintiff public charitable trust failed to prove to the ready and willingness to execute the sale deed as required under the provisions of Specific Relief Act. Hence the suit is not maintainable.

A: I deny.

Q163: Except lending its name for the Ex.P2 sale agreement the public charitable trust have nothing to do with this land deal or transaction under this suit. You have filed a boogey suit which warrants outright rejection.

A: I deny.

Q164: You successfully manipulated and dragged on the issue for more than 14 years. The defendant suffered a lot in your hand, you never had any consideration to the poor, unfortunate and helpless defendants. You successfully prevented the defendants from selling the property to any third party by illegally squatting over the property. You are mala fide fraudulent person and you are not entitled to any relief in this suit before the court and the suit has to be dismissed with compensatory cost.

A: I deny.

Re-Examination : Nil.

Time: 01.31 P.M.

Taken down in open Court, read over and explained to the witness and the same is admitted by the witness to be true and correct and signed before me.

ADDITIONAL MASTER-IV