

IN THE COURT OF THE PRINCIPAL SENIOR CIVIL JUDGE ; RANGA REDDY DISTRICT
COURTS ; AT L.B.NAGAR ; HYDERABAD

I.A.No. OF 2008

IN

O.S.No. 1549 OF 2007

Between:

Sri Vinay Agarwal

...Petitioner/Plaintiff

AND

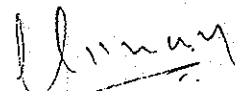
M/s. Summit Builders & another

...Respondents/Defendant & proposed Defendant No.2

AFFIDAVIT

I, Vinay Agarwal, S/o. Sri Vasudev, aged 43 years, Occ : business, R/o. Flat No.403, Susheel Residency, Hyderguda, Hyderabad do hereby do hereby solemnly affirm and state on oath as follows :

1. I am the petitioner herein and as such I am well acquainted with the facts of the case.
2. I submit that I have filed the above suit against the respondent No.1 directing the respondent No.1 to execute and get registered the sale deed in my favour or my nominee/s by receiving the balance of sale consideration of Rs.4,40,525/- in respect of all that the Flat No.401 on fourth floor in Silver Oak Apartments, forming part of Survey No. 290, admeasuring 725 square feet of super built up area together with proportionate undivided share of land to the extent of 36.25 square yards and a reserved parking space for two wheeler bearing No.73 situated at Cherlapally Village, Ghatkesar Mandal, Ranga Reddy district, as given in the plaint schedule.
3. I have also prayed the Hon'ble Court that on failure of the respondent No.1 to come forward to execute and get registered the sale deed, this Hon'ble court may be pleased to execute and get registered the sale deed in my favour or my nominee/s. on behalf of the respondent No.1 and consequently to pass a decree for perpetual injunction restraining the respondent No.1 from transferring, alienating, creating any third party interest or charge of the suit flat in favour of the third parties etc. The contents of the plaint may be read as part and parcel of the affidavit.
4. I further submit subsequent to making appearance in the case, the respondent No.1 has been cool and has not been showing any interest in the case, which forced me to suspect him. Accordingly I made enquiry and I have come to know that the respondent No.1 has already sold the suit schedule property to some third parties.



DEPONENT

Contd..2

On further enquiry and with great difficulty I could obtain the details and I have obtained the certified copy of the sale deed dated 31-01-2007 registered as document No.1804/2007 of the Office of the Sub-Registrar, Uppal, Ranga Reddy district. As per the said document, the respondent No.1 along with Mrs. Sri Sai Builders has sold the suit schedule property to Smt. Subhashini S. Gade, W/o. Sri Shriram Mogallapalli, the respondent No.2 herein.

5. I submit that the agreement entered between me and the respondent No.1 is prior to the deed executed by the respondent No.1 in favour of the respondent No.2. In view of my agreement with the respondent No.1 being subsisting as on the date of execution of the sale deed by the respondent No.1 in favour of the respondent No.2, the same is hit by the doctrine of lis pendence, which is sham in the eyes of law and my agreement only holds good.
6. I further submit that in these circumstances it is just and necessary that the respondent No.2 be impleaded as the defendant No.2 to the suit. It may take some time for disposal of the suit and in the meanwhile, the respondent No.2 may further transfer the suit property to third parties, which would lead to multiplicity of proceedings and complicate the matter. In order to give complete effect to my legal status and the provisions of law, it is required that the respondent No.2 is made a party defendant to the present suit.
7. I also submit that if the respondent No.2 is not made a party to the present suit, I would be subjected to heavy loss and injury which cannot be compensated by any means and on the other hand no prejudice would be caused to any body if the respondent No.2 is made a defendant to the suit. If the respondent No.2 is impleaded in the suit, it would help the Hon'ble Court in passing a reasoned judgment on merits and rendering justice to one and all.
8. It is therefore prayed that the Hon'ble Court may be pleased to pass an order impleading the respondent No.2 herein Smt. Subhashini S. Gade, W/o. Sri Shriram Mogallapalli, aged about 30 years, residing at C/o. Sri Satyanarayana Murty Bondada, H.No.6-10-30/A, Raja Street, Peddapuram, East Godavari district - 533 437, as the defendant No.2 to the suit in O.S.No.994/2007 pending disposal on the file this Hon'ble Court in the interest of justice and pass such other orders as this Hon'ble Court deems fit in the circumstances of the case.

Sworn and signed before me on this the
28th day of April, 2008 at Hyderabad.


DEPONENT

Identified by Sri Shyam S. Agrawal, Advocate.

ADVOCATE - HYDERABAD