

IN THE COURT OF THE VIII ADDL. SENIOR CIVIL JUDGE
R.R.DISTRICT AT L.B.NAGAR

I.A.NO. 775 OF 2008
IN
O.S.NO.1549 OF 2007

Between:

Sri Vinay Agarwal ... Petitioner/Plaintiff

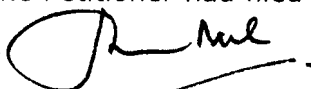
And

Summit Builders P.Ltd ... Respondents/Defendants

COUNTER AFFIDAVIT FILED ON BEHALF OF RESPONDENT NO.1

I, Soham Modi S/o Sri Satish Modi, aged 37 years, R/o Secunderabad, do hereby solemnly affirm and state on oath as follows:

1. I am the partner of the Respondent No.1 firm and as such I am well aware of the facts deposed hereunder.
2. With regard to para No.2 of the affidavit, it is true that the Petitioner has filed the above suit for execution of a sale deed in his favour but the averments in the plaint are not true and correct.
3. With regard to para No.3 the contents therein are not disputed.
4. With regard to para No.4 it is not true to say that the Respondent has not been contesting the matter in fact, I had filed my counter in the I.A. and also the written statement on behalf of the Respondent No.1 firm. It is submitted that the Plaintiff has not been pursuing the case seriously. He has been filing all frivolous applications to drag on the matter with an aim to harass the Respondent herein. It is true that this Respondent had executed a Sale Deed in favour of Smt.Subashini S.Gade which was registered as document No.1804/2007 in SRO Uppal, R.R.District. This Sale Deed was executed on 31.01.2007. The Sale deed is a public document and the Petitioner could have easily obtained a certified copy from the S.R.O.
5. With regard to para No.5, as there was no agreement subsisting as on the date of the execution of the sale deed, the Petitioner had no right subsisting on the date of sale deed executed in favour of the proposed Defendant No.2. There is no question of the sale deed being hit by doctrine of lispendence, as there was no pending litigation between this Petitioner and Respondent No.1 at the time of execution of the sale deed. In fact, the Petitioner had filed a suit much later than the date of the sale deed.



6. With regard to para No.6, it is not at all necessary for impleading Respondent No.2 herein as Defendant No.2 in the suit. The Respondent No.2 has acquired a valid title over the property and he has got every right to deal in the property as deems fit. It is further submitted that the sale deed was executed on 31.01.2007 which the Petitioner is aware of and the Petitioner had filed a suit much later that is in the month of June, 2007 and there was no order of this Hon'ble Court on the date of the execution of the sale deed nor the Petitioner had any right subsisting on the date.

7. It is submitted that there is absolutely no loss which cannot be compensated by any means nor any prejudice will be caused to the Petitioner herein if the Respondent No.2 is not made a party to the suit.

I, therefore, pray that this Hon'ble Court may be pleased to dismiss the petition filed by the Petitioner for impleading Respondent No.2 be dismissed with exemplary costs:

Sworn and signed before me
on this the 11th day of September, 2009
at L.B.Nagar.



DEPONENT

ADVOCATE / L.B.NAGAR

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Filed on: 11-09-2009

Filed by: Sri.C.Balagopal
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COUNSEL FOR RESPONDENT NO.1