

**IN THE COURT OF THE HONBLE XVI ADDL. DISTRICT JUDGE
AT: MALKAJGIRI.**

I.A.NO. OF 2021
IN
OS No. 130 OF 2020

Between:

MODI HOUSING PVT. LTD. & 9 OTHERS

Petitioner/Defendant No. 13 to 22

And

MRS.T.ANUROOPA REDDY & ORS.

Respondent/Plaintiff/Defendants

AFFIDAVIT

I, Soham Modi, S/o. Late Satish Modi, aged about ____years, Occupation: Business and resident of Hyderabad, authorized signatory of Modi Housing Pvt. Ltd., the Petitioner No. 1/Defendant No. 22, herein, do hereby solemnly affirm and state on oath as under:

1. I respectfully submit that I am the Petitioner herein and the Defendant No. 22 in the main suit and I am well acquainted with the facts of the case. I am filing the present affidavit and the petition on behalf of the Petitioner No. 1/Defendant No. 22 as well as the Defendant Nos. 13 to 21. I state and affirm that I am competent to depose this affidavit on behalf of Defendant Nos. 13 to 21 with their consent.
2. I respectfully submit that the present suit is filed by the Respondent No.1/Plaintiff seeking partition and separate possession in respect of Suit Schedule Property against Defendants *inter alia* seeking various other reliefs. The present petition is filed seeking rejection of plaint filed against the Suit Schedule Property on the grounds as detailed

For MODI HOUSING PVT. LTD.

Director

below and to pass such other order/s as this Hon'ble Court may deem fit and proper in the circumstances of the case.

3. At the very onset, the Petitioner most respectfully submits before this Hon'ble Court that the suit filed by the Respondent No 1/Plaintiff against the Petitioner/Defendant Nos. 13 to 22 and others is not maintainable in law for being barred by limitation, on account of payment of deficit court fee, for not disclosing cause of action and for playing fraud on this Hon'ble Court.
4. Further the Plaint as filed is misconceived and baseless and devoid of merits and rightly deserves to be dismissed with huge costs. The Respondent No 1/Plaintiff have not only concealed material facts, but have also deliberately not arrayed necessary parties and have approached this court with unclean hands. It is evident that the Plaintiff has filed this plaint only to harass and make unlawful gains at the cost of the Petitioners/Defendants and the present owners of the residential flats developed on the Suit Schedule Property.

Suit is Barred by Limitation:

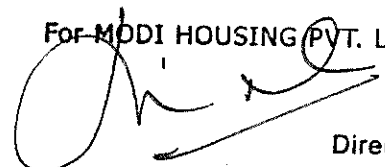
5. It is most humbly submitted that, from a bare perusal of the Plaint it will be evident that the under the garb of filing a suit of partition and claiming 1/19th share in the Suit Schedule Property, the Plaintiff is indirectly challenging the Sale Deed dated 29.12.1954 executed by her grandfather i.e. M. Raja Reddy in favour of M. Narsa Reddy and partition deed bearing No. 57 of 2007, dated 05.01.2007. It is submitted that, while the Sale Deed is dated 29.12.1954 and the

For MODI HOUSING PVT. LTD,

Director

Partition Deed is dated 05.01.2007, the Plaintiff has filed this concocted suit, as an after thought only in the year 2020.

6. It is most humbly submitted that, the revenue records for as early as 1955-58 which are relied upon by the Respondent No.1/Plaintiff herein clearly mention the name of M. Raja Reddy and Narsa Reddy as the joint owners and possessors of the Suit Schedule Property. The fact that Respondent No.1/Plaintiff has waited for more than 42 years to challenge and dispute the said revenue records for inclusion of name of M. Narsa Reddy speaks volumes about the intention of the Respondent No.1/Plaintiff and the purposes of filing the present suit.
7. It is further submitted that as per the admission of the Respondent No.1/Plaintiff the Suit Schedule Property was partitioned between legal heirs of M. Raja Reddy and Narsa Reddy in the year 2007 vide document bearing No. 57 of 2007, dated 05.01.2007, who subsequently sold the same to various 3rd parties and accordingly Suit Schedule Property was developed into residential apartments and is presently in ownership and peaceful possession of various flat owners for more than 10 years. In light of the above facts and circumstances which are admitted by the Respondent No.1/Plaintiff in her plaint it is incomprehensible and unimaginable to assume that the Respondent No.1/Plaintiff was unaware of all the revenue records, the subsequent partition between the legal heirs, and also about the development and sale of Suit Schedule Property into residential flats for more than 14 years .

For MODI HOUSING PVT. LTD.

Director

8. In fact, as per the pleadings of the Respondent No.1/Plaintiff herein, the developmental activities in relation to the Suit Schedule Property started way back in the year 2007 and the Respondent No.1/Plaintiff yet wrongfully and unmindfully alleges that she was unaware of the developmental activities conducted in the Suit Schedule Property till 2020. It is pertinent to note that the said developmental activities were completed by Block wise A,B & C in the year 2011, 2013 & 2014 and the residential apartments were developed and sold to various 3rd parties who are in uninterrupted and peaceful ownership and possession of the same till date.
9. It is submitted that the claim of the Respondent No.1/Plaintiff that she was unaware of any of the above developments on the Suit Schedule Property despite being a resident of Secunderabad is incomprehensible and establishes the fact that the said suit is filed as an afterthought only with an intention to extort the flat owners who have invested their life savings to acquire the said flats on the Suit Schedule Property.
10. As such, the suit as filed is barred by limitation and the Plaintiff on a mere uncorroborated contention that she became aware of the partition deed and development of the Suit Schedule Property only in 2020 cannot maintain the present suit, which will amount to abuse of process of law.

Payment of Deficit Court Fee:

11. It is submitted that the Plaintiff has paid court fee of Rs. 200/- for filing the present suit on the ground that she is in possession of the Suit Schedule Property, whereas, the Plaintiff is admittedly not in possession of the Suit Schedule Property.

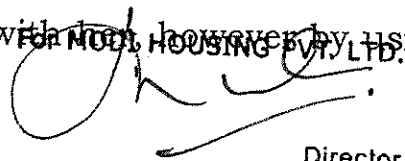
For MODI HOUSING PVT. LTD.

12. It is reiterated that, under the garb of seeking relief of partition of the Suit Schedule Property, the Plaintiff is seeking adjudication of whether the Sale Deed dated 29.12.1954 executed by her grandfather i.e. M. Raja Reddy in favour of M. Narsa Reddy is null and void, without formally seeking any relief in this regard, only to surpass limitation and avoid payment of court fee.

13. Further, the Plaintiff has sought for a declaration that the partition deed bearing No. 57 of 2007, registered sale deed bearing no. 62, 63, 64 & 65/2007 and ratification deed document no. 182/2007 and exchange deed no. 2501/2004 are invalid. The Plaintiff has only notionally valued relief of declaration sought in respect of the aforesaid documents at Rs. 10,000/- each and paid a nominal amount of Rs. 5,502/- instead of computing the court fee on the basis of the value/sale consideration contained in each document. It is therefore submitted that, the Plaintiff has deliberately undervalued the reliefs to avoid payment of court fee and hence the plaint deserves to be rejected.

No Cause of Action:

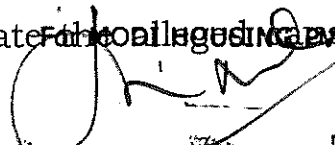
14. It is respectfully submitted that the entire claim of the Respondent No.1/Plaintiff is based on her being the legal heir of Late Mogula Raja Reddy as allegedly claimed by her. However, not a single piece of evidence has been adduced by the Plaintiff to establish her relationship with Late M. Raja Reddy. The onus to prove her relationship with Late M Raja Reddy lies with her, however by using


For MUDRA HOUSING FIN. LTD.

Director

clever drafting the Respondent No.1/Plaintiff tried to circumnavigate this important aspect in order to create fictitious cause of action. It is relevant to note that none of the documents relied upon by her records her name as pattedar or legal heir of Late M Raja Reddy and on the contrary the said fact proves that she is not related to Late M Raja Reddy in any way.

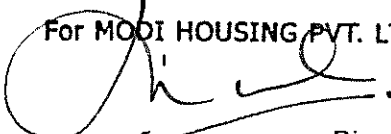
15. It is further submitted that as per Sections 29-A(ii) & (iv) of Andhra Pradesh Amendment act 1986 in Hindu Succession Act 1956, the daughter of the coparcener shall have no right in partition of a Joint Hindu Family Coparcenary Property, if the daughter was married prior to or if the said property had already been partitioned prior to commencement of the aforesaid amendment act of 1986.
16. It is submitted that even assuming (but not conceding) that the Respondent No.1/Plaintiff is the legal heir of Late M Raja Reddy, the burden of proof still lies on the Respondent No.1/Plaintiff to prove that she was married after implementation of the said amendment act to claim any right whatsoever in the Suit Schedule Property.
17. It is submitted that, in a suit for partition, a plaintiff can be said to have disclosed a cause of action only if the plaintiff establishes he/she has succeeded to ancestral property.
18. However, Respondent No.1/Plaintiff has deliberately not filed any documents to establish her claims and has deliberately concealed the facts about her marriage in her pleadings in order to mislead this Hon'ble Court with an intention to create a false cause of action.


Director

action, harass the present owners and extort money from them in the name of settlement. Therefore, from the cause of action contained in the plaint it cannot be said that the Plaintiff has been able to disclose a cause of action for maintaining a suit of partition in connection with the Suit Schedule Property.

Non Joinder of Necessary Parties:

19. It is submitted that that the Respondent No.1/Plaintiff has admitted in her pleadings that the Suit Schedule Property have already been sold by Defendant Nos. 1 to 8 in the year 2007 to the other Defendants in the suit and the said Defendants started developmental activities way back in the year 2007 for developing various projects consisting of residential apartments and sold the same to various 3rd parties who are in absolute possession and ownership of the same at the time of filing of this suit, however, despite having knowledge of the same, the Respondent No.1/Plaintiff, for the reasons best known to her, have failed to add them as parties to the Suit.
20. It is further submitted that in light of the above facts and circumstances, any orders issued by this Hon'ble Court in relation to the Suit Schedule Property shall not be just and proper without proper representation of all the necessary parties to the list and hence this suit is liable to be dismissed for deliberate non joinder of necessary parties.

For MOOI HOUSING PVT. LTD.

Director

Adverse Possession:

21. It is most humbly submitted that as per the revenue records dating back to 1955, relied upon by the Respondent No.1/Plaintiff, it is clear that both Narsa Reddy and Raja Reddy were recorded as joint owners and possessors of the Suit Schedule Property. The fact that Narsa Reddy and Raja Reddy followed by their legal heirs continued to be joint owners and possessors of the Suit Schedule Property till 2007 i.e., for a period of 52 years, further establishes the title and ownership of Narsa Reddy over the Suit Schedule Property.
22. It is submitted that even assuming that Narsa Reddy was not the owner of the Suit Schedule Property as claimed by the Respondent No.1/Plaintiff herein, the fact that name of Narsa Reddy has been recorded as the pattadar and possessor of the Suit Schedule Property since 1954, without the same being contested or objected to by any of the parties concerned till the year 2020 establishes the title of Narsa Reddy over the Suit Schedule Property by way of adverse possession. Moreover, all the legal heirs of M. Raji Reddy have further confirmed the title of Narsa Reddy and his legal heirs when they executed the partition deed bearing document No. 57 of 2007, dated 05.01.2007 and hence ownership and title of Narsa Reddy cannot be disputed.
23. It is submitted that the Respondent No.1/Plaintiff maintained stoic silence for all these years and filed the present suit as an afterthought after noticing a sudden raise in the value of Suit

For MODI HOUSING PVT. LTD.

Director

Schedule Property with an ill intention of extorting unlawful gains at the cost of hard earned monies of the flat owners.

24. It is submitted that the aforementioned objections are adequate to prove the ill intention of Respondent No.1/Plaintiff in filing the said suit and further establish the lack of cause of action which was being created by the Respondent No.1/Plaintiff by misrepresentation and deliberate concealment of relevant facts and hence the suit is liable to be dismissed with exemplary costs.
25. It is most humbly submitted that this suit is not maintainable and the reliefs claimed cannot be granted by this Hon'ble Court in addition to the fact that the suit was filed concealing relevant facts which prove that the suit is barred by limitation, has been filed by paying deficit court fee, does not disclose a cause of action and further by conscious non joinder of necessary parties for the sole purposes of defrauding this Hon'ble Court and hence the same is liable to be dismissed.
26. It is submitted that if the Petitioners, who are the bonafide purchasers of the Suit Schedule Property are already made victim of a frivolous, baseless and created litigation and if the plaint. It is just and necessary that this Court rejects the plaint filed by Respondent on the grounds stated above and take such necessary action as it deems fit to curb the attempts of Respondent No. 1/Plaintiff in indulging in fraud and misrepresentation to abuse the judicial process and defeat the legitimate rights of a bonafide purchasers. If the same is not taken into consideration, this Petitioner would suffer

For MODI HOUSING PVT. LTD.

Director

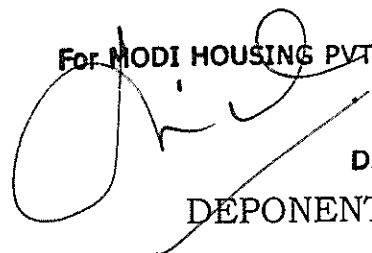
grave hardship and be forced to defend this false and frivolous suit filed by the Respondent No.1.

27. The Petitioners have filed the present application on basis of limited records available with them and seeks leave of this Hon'ble Court to file documents and amend the pleadings and raise additional grounds, just and necessary for adjudication of the lis involved in the present petition.

Hence the Petitioners/Defendant No 13 to 22 most humbly pray that, for the reasons stated above, this Hon'ble Court may be pleased to reject the plaint with exemplary costs and pass such other order/s as the Hon'ble Court may deem fit and proper in the circumstance of the case.

Sworn and signed before me

On this ____ day of November 2021.


For MODI HOUSING PVT. LTD.
Director
DEPONENT

Advocate/Hyderabad