

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2015

CORAM

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(PD)No.1048 of 2015 and
M.P.Nos.1 and 2 of 2015

G.Sasikala

... Petitioner

vs.

1.R.Ethirajan
2.E.Chandrammal

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 02.12.2014 passed in C.M.A.No.86 of 2014 on the file of the VII Additional Judge (FAC) City Civil Court at Chennai setting aside the common fair and decretal order dated 25.04.2014 in I.A.No.17599 of 2013 passed in I.A.No.13661 of 2013 in O.S.No.5094 of 2013 on the file of the XVI Asst. Judge, City Civil Court, Chennai.

For Petitioner : Mr.A.S.Narasimhan

For Respondents : Mr.S.Veeraraghavan

ORDER

The revision petitioner is the plaintiff in O.S.No.5094 of 2013 on the file of XVI Assistant Judge, City Civil Court, Chennai. The respondents herein are the defendants therein. The suit is for permanent injunction restraining the respondents from in any manner trespassing, encroaching, disturbing or interfering with the petitioner's peaceful possession and enjoyment of the suit schedule property. The suit schedule property is in S.No.339/1, Ram Nagar, 6th Main Road, Velacherry Village, measuring 4800 sq.ft. (2 grounds) in Mambalam-Guindy-Taluk.

2. The revision petitioner filed O.S.No.6464 of 2013, wherein, the vendor of the property and the Sub-Registrar were made as parties. It is stated that respondents herein are also impleaded as parties therein. The said suit in O.S.No.6464 of 2013 is pending on the file of 15th Assistant Judge, City Civil Court, Chennai. The prayer in O.S.No.6464 of 2013 is to declare that suit 'B' Schedule property sold to the revision petitioner by the father of the first defendant therein, is comprised in Survey No.339/1B.

3. 'A' Schedule property is the vacant land measuring an extent of 17 grounds (about 94 cents) in S.No.339/1, Ram Nagar, 6 Main Road, Velacherry Village, in Mambalam-Guindy-Taluk.

4. The revision petitioner as well as defendants claim to be the owners of Survey No.339/1B to an extent of 2 grounds (4800 sq.ft) at Ram Nagar, 6th Main Road, Velacherry.

5. The revision petitioner filed I.A.No.13661 of 2013 in O.S.No.5094 of 2013 under Order 39 Rules 1 and 2 of C.P.C., for temporary injunction, restraining the respondents herein in any manner trespassing, encroaching, disturbing or interfering with the petitioner's peaceful possession and enjoyment of the property. The Trial Court, by an order dated 18.09.2013 granted interim injunction.

6. The respondents herein filed I.A.No.17599 of 2013 in O.S.No.5094 of 2013 to vacate the interim injunction granted on 18.09.2013 in I.A.No.13661 of 2013.

7. The XVI Assistant Judge, City Civil Court passed a common order, dated 25.04.2014 in I.A.No.13661 of 2013 and I.A.No.17599 of 2013 in O.S.No.5094 of 2013, wherein, I.A.No.13661 of 2013 was allowed as prayed for and consequently, I.A.No.17599 of 2013 was dismissed.

8. As against the said order dated 25.04.2014, the respondents herein filed C.M.A.No.86 of 2014 on the file of VII Additional Judge (FAC), Chennai and the same was allowed on 02.12.2014. This revision petition is against the aforesaid order dated 02.12.2014.

9. Heard both sides.

10. It is not in dispute that the revision petitioner as well as the respondents claim the same property and it is the claim of both parties that they are the owners. I am of the view that the issue has been gone into by the Trial Court at the time of trial.

11. It is agreed by both parties that status quo shall be maintained and both parties shall not alienate the suit property till the disposal of the suit. The said submission is recorded.

D.HARIPARANTHAMAN,J.,

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12. In view of the same, this Civil Revision Petition is disposed of with the following directions:-

i) O.S.No.6464 of 2013 pending on the file of the XV Assistant Judge, City Civil Court is withdrawn and transferred to XVI Assistant Judge, City Civil Court to try along with O.S.No.5094 of 2013.

ii) The XVI Assistant Judge, City Civil Court is directed to dispose of both suits in O.S.No.6464 of 2013 and O.S.No.5094 of 2013 by joint trial, within a period of six months from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petition is closed.

14.09.2015

Index : Yes/No
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Note : Issue order copy on 21.09.2015

To

1. XVI Assistant Judge, City Civil Court, Chennai
2. XV Assistant Judge, City Civil Court, Chennai

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