

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2015

CORAM

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

C.R.P.(NPD)No.4255 of 2015 and
M.P.No.1 of 2015

Chillaraikadai alias
Mannadi Marundhukkadaikar Chatram
Represented by its Fit Person
Arulmigu Marundheeswarar Thirukoil
Thiruvanmiyur,
Chennai - 600 041.

... Petitioner

vs.

1.Bhupathi Naicker

2.R.M.Constructions
Represented by its Managing Partner
R.M.Cyril,
108, R.M.Towers,
Chamiers Road, Chennai - 600 018.

3.R.M.Cyril
Managing Partner
R.M.Constructions
108, R.M.Towers,
Chamiers Road, Chennai - 600 018.

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 01.09.2015 made in I.A.No.12932 of 2015 in O.S.NO.8986 of 2010 (Previously C.S.No.282/2008 on the file of Hon'ble Madras High Court) on the file of II Additional City Civil Court, Chennai.

For Petitioner : Mr.M.Sundar for
Mr.K.Ashok Kumar

For Respondents : Mr.V.Srikanth

ORDER

The revision petitioner is the specific endowment attached to the Arulmigu Marundheeswarar Thirukoil at Thiruvannamiyur, Chennai.

2. Originally, the revision petitioner filed a Civil Suit before this Court in C.S.No.282 of 2008, but the same got transferred to II Additional City Civil Court, Chennai, pursuant to alteration in pecuniary jurisdiction and re-numbered as O.S.No.8986 of 2010. During the pendency of the suit, the revision petitioner has been in enjoyment of interim injunction and the same was also made absolute. Ultimately, the suit was dismissed by the Trial Court on 28.07.2015.

3. The learned counsel for the revision petitioner submits that copy application was made on 29.07.2015, the very next day of the judgment dated 28.07.2015, but copy is yet to be available. Hence, the revision petitioner filed I.A.No.12932 of 2015 in O.S.No.8986 of 2010 to pass an order of interim stay of the judgment and decree dated 28.07.2015 in O.S.No.8986 of 2010, till the receipt of certified copy of the same and to continue the injunction that the petitioner has been enjoying during the pendency of the suit. The Trial Court rejected the said interim application vide order dated 01.09.2015. Hence the petitioner has come up with this petition.

4. The learned counsel for the petitioner has brought to my notice that Order 39 Rule 2 CPC provides for continuing the injunction even after the dismissal of the suit, if a proper case is made out. He would submit that petitioner is entitled to injunction till the appeal period expires, otherwise the petitioner would be put to irreparable loss.

5. Though the learned counsel for the respondents vehemently opposes this petition, I am prima facie satisfied with the submission made by the learned counsel for the petitioner. Hence, the order dated 01.09.2015 passed by the Trial Court is liable to be interfered with.

6. Accordingly, the order common order dated 01.09.2015 passed by the Trial Court in I.A.No.12932 of 2015 in O.S.No.8986 of 2010 is set aside. The interim injunction, which the petitioner has been enjoying from 2008 onwards would continue upto 30 days from the date of receipt of a copy of the judgment/ decree in the suit, which is the time limit prescribed for filing appeal under the Code of Civil Procedure.

The Civil Revision Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

29.10.2015

Index : Yes/No

Internet : Yes

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D.HARIPARANTHAMAN,J.,

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To

The II Additional City Civil Court, Chennai.

C.R.P.(NPD)No.4255 of 2015

29.10.2015