

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2015

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THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.R.P.(PD) No. 933 of 2015

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M.P. No. 1 of 2015

M/s. Tondiarpet Goodwill Avenue
Kidiyiruppu Nala Sangam rep. By
its President Mr.P. Deisingh
having address at Old No. 240/2,
New No. 751/3, T.H. Road,
Tondiarpet, Chennai - 600 081.

..Petitioner

Vs.

1. Mr.A. Kandasamy
2. Tmt. Vijaykumari
3. Mr.P. Selvarajan

..Respondents

Prayer: Civil Revision Petition under Article 227 of the Constitution of India seeking a direction to the XIII Assistant Judge, City Civil Court, to dispose of I.A. No. 2054 of 2015 in O.S. No. 824 of 2015 pending on his file.

For Petitioner :: Mr.P. Sidharthan

O R D E R

The plaintiff in O.S. No.824 of 2015 on the file of XIII Assistant Judge, City Civil Court, Chennai, is the petitioner herein, seeking a direction to dispose of I.A. No. 2054 of 2015, which was filed for grant of an ad interim injunction.

2. The suit in O.S. No. 824 of 2015 is for permanent injunction restraining the 1st defendant/1st respondent herein or anyone representing him from carrying out the construction in the 20ft common passage more fully described in the schedule to the plaint and the rough sketch annexed with the plaint and for other reliefs. Pending the suit, the petitioner herein filed I.A. Nos. 2054 of 2015 for an order of ad-interim injunction restraining the 1st respondent or his men or agents, servants or anyone representing him from carrying out the construction in the 20ft common passage more fully described in the schedule thereunder and the rough sketch annexed with the plaint and I.A. No. 2055 of 2015 for appointment of an Advocate Commissioner to note the physical features; the encroachment of the 1st respondent and file a detailed report in respect of the suit schedule property. According to the learned

counsel for the petitioner, though the said interlocutory applications were filed as early as on 09.02.2015, the respondents are yet to file their counter, in spite of several adjournments granted. However, in the application filed by the 1st respondent in I.A. No. 3008 of 2015 for rejection of the plaint in O.S. No. 824 of 2015, the petitioner has filed the counter and the same is ready for enquiry. While so, on 25.02.2015, when I.A. Nos. 2054 & 2055 of 2015 were posted for counter of the respondents, it was represented on behalf of the respondents that they intend to file a transfer O.P. and therefore, the hearing of the applications were adjourned to a later date, much to the detriment of the petitioner, as according to the learned counsel for the petitioner, the respondents are proceeding with the construction. Aggrieved over the said order passed by the Trial Court, the petitioner has filed the present revision for the relief aforesaid.

3. No notice is required to be served on the respondents as this Court intends to direct the Trial Court to dispose of the pending applications, after affording an opportunity to both parties, which is not likely to cause any prejudice to the respondents. Hence, notice to the respondents is dispensed with.

4. Considering the contention made by the learned counsel for the petitioner that the respondents are proceeding with the construction

N. KIRUBAKARAN,J.

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hurriedly without any approval plan, though the relief sought is for disposal of I.A. No. 2054 of 2015, it is appropriate to direct the XIII Assistant Judge, City Civil Court, Chennai, to dispose of I.A. No. 2054 of 2015 as well as I.A. No. 2055 of 2015 filed by the petitioner and so also, I.A. No. 3008 of 2015 filed by the 1st respondent on or before **31st March, 2015**, as both the parties would be benefitted by an early disposal of the said applications. The Civil Revision Petition is disposed of accordingly. No costs. Connected M.P. is closed.

03.03.2015

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(Note to Office: Issue order copy by

05.03.2015)

To

The XIII Assistant Judge,

City Civi Court, Chennai.

