

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HON'BLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
THE HON'BLE MRS. JUSTICE PUSHPA SATHYANARAYANA

O.S.A.No.160 of 2015,
O.S.A.Nos.326 and 327 of 2012

O.S.A.No.160 of 2015:

J.Rajendran .. Appellant

Versus

1.The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai 600 005.

2.Vincent Paul,

3. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai 600 003. ... Respondents.

O.S.A.Nos.326 and 327 of 2012:

Vincent Paul .. Appellant

Versus

1.J.Rajendran
2.J.Ram Mohan
3.J.V.Prabhakar
4.J.Janardhana

5. The Chairman,
Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai 600 005.

6. The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai 600 003.

.. Respondents 5&6/
Respondents 1 &3

OSA.No.160 of 2015: Appeal filed under Order 36 Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent, against the order dated 23.12.2014 passed in O.A.No.186 of 2011 in C.S.No.455 of 2011, on the file of this Court.

OA.NO.186 of 2013:Original Application praying that this Hon'ble Court be pleased to appoint the Receiver to take charge of the property at No.48, Old NO.50, 12th Trust Cross Street, Mandavalipakkam, Raja Annamalaipuram, Chennai-600 028 morefully described in the schedule hereunder with the right to collect the rents from the tenants including taking proceeding for fixation of fair rent and maintain the property pending disposal of the above suit.

OSA.Nos.326 and 327 of 2012:Appeals filed under Order 36 Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent, against the order dated 19.10.2014 and 19.10.2011 passed in O.A.Nos.565 and 566 of 2011 in C.S.No.455 of 2011, on the file of this Court.

OA.No.565 of 2011:This Application praying that this Hon'ble Court be pleased to grant an order of Interim Injunction restraining the 3rd Respondent from granting sanction for demolition and reconstruction plan in respect of the suit property in favour of the 2nd Respondent pending disposal of the above suit.

OA.NO.566 of 2011:This Application praying that this Hon'ble Court be pleased to grant an order of Interim Injunction restraining the 1st Respondent from executing the Sale Deed in favour of the 2nd Respondent.

For Appellant .. Mr.M.K.Kamalanathan in

OSA.No.160 of 2015

Mr.M.L.Ganesh in OSA.Nos.326 and 327 of 2012

For Respondents ... Mr.M.Kamalanathan for R.1 to R.4

Mr.M.Perumal for R.5 and

Mr.K.Soundararajan for R.6 in OSA.Nos.326 and 327 of 2012

Mr.M.Perumal for R.1

Mr.M.L.Ganesh for R.2 and

Mr.K.Soundararajan for R.3 in

OSA.No.160 of 2015

* * * * *

C O M M O N J U D G M E N T

(Judgement of the Court was delivered by The Hon'ble Chief Justice)

We have heard the learned counsel for the parties. It is agreed that the appeal be disposed of in the following terms:

(i) The second respondent in OSA.No.160 of 2015 will file an affidavit within a week before the learned Single Judge affirming that he is in complete occupation of the property now and he states that earlier, at the stage of Local Commissioner's inspection, his sister's son was staying in one portion of the property, who has left. The affidavit also to undertake that the said party will not part with possession to any third party during trial of the suit nor will he create any alienation or encumbrance on the property.

(ii) Written statement not having been filed by the Tamil Nadu Slum Clearance Board, the same shall be filed within thirty days from today.

2. Parties to file their respective documents within the said period of 30 days.

3. The suit be listed for framing of issues on 19.01.2016 before the Court.

4. The suit be thereafter listed for exhibition of documents before the learned Master on 28.01.2016.

5. In order to expedite the trial, learned counsel for the parties agree that given the heavier board of the Master, the evidence be recorded by a retired Judicial Officer and the costs for the same shall be borne equally by the contesting parties to the property.

6. On consent of parties, Mr.S.Vanangamudy, a retired Judicial Officer, residing at No.22, Elayamudhali Lane, Old Washermenpet, Chennai -21 (Phone - 9443884779), is appointed as Commissioner, to record evidence and the fee of the Local Commissioner is fixed at Rs.60,000/- (Rupees Sixty Thousand only) to be shared equally by the two parties, apart from out of pocket expenses. The Local Commissioner will endeavour to conclude the evidence within a period of four months from the first date fixed before him by the learned Master.

7. On completion of trial, the case be listed before the court on 19.01.2016, for directions to fix the date for final hearing.

8. The issue of limitation sought to be raised by the second respondent in OSA.No.160 of 2015 and the appellant in OSA.Nos.326 and 327 of 2012, will be tried as one of the issues in the suit.

9. Status quo as on date shall be maintained qua the property by all concerned during the pendency of the suit.

The Original Side Appeals accordingly stand disposed of in the aforesaid terms, leaving the parties to bear their own costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Sub Assistant Registrar (OS)
High Court, Madras

2. Mr.S.Vanangamudy,
Retired Judicial Officer,
No.22, Elayamudhali Lane,
Old Washermanpet, Chennai-21
(Phone No.9443884779)

+1 cc to Mr.M.Kamalanathan Advocate sr.64389

+1 cc to Mr.M.L.Ganesh Advocate sr.64400

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O.S.A.No.160 of 2015
and

OSA.Nos.326 and 327 of 2012

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