

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE R.MAHADEVAN

O.S.A. Nos.397 to 399 of 2011
and M.P.Nos.1, 1, 1, 2 and 2 of 2011

1.Khivraj Motors Pvt. Ltd.,
623, Anna Salai,
Chennai 600 006.

2.Khivraj Automobiles Pvt. Ltd.,
623, Anna Salai,
Chennai 600 006.

.. Appellants in all OSAs.

-vs-

Dr.Kayal Senthilnathan

.. Respondent in all OSAs

Appeals filed under Order XXXVI Rule 9 of O.S. Rules read with Clause 15 of the Letters Patent against the common order dated 14.09.2011 passed in O.A.Nos.36 and 37 of 2011 and A.No.878 of 2011 in C.S.No.23 of 2011 on the file of original side of this Court.

For Appellants : Mr.Sathish Parasaran, Sr. Counsel
for Mr.Foxmandal and Asso

For Respondent : Mr.B.Ravi
for Mr.R.Subramanian

J U D G M E N T

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

Neighbours cannot live in peace. The fight is over a common area and the passage. The learned Single Judge, by an interlocutory order, has restrained the appellants from interfering with the respondent's rights as plaintiff of usage of common passage on both sides of Surya Mansion and has further restrained the appellants from putting up any further structure in the common passage till the disposal of the suit.

2.Learned Senior Counsel for the appellants contends that the first part of the direction amounts to an interim mandatory injunction order to put forth a situation which was not even prevalent at the stage of institution of the suit. He is saying so by referring to the averments in the plaint. On the other hand, learned counsel for the respondent submits that the appellants have actually violated the order of the Court, made construction and now seek to keep the same under the guise of the status quo order passed by the Division Bench. He submits that contempt petition No.1769 of 2012 has already been filed and is pending before the learned Single Judge.

3.As usual, five years have not been enough to bring the written statement on record. Defence has not been disclosed.

4.On hearing the learned counsel for parties, we dispose of the appeals with the following directions:

- (a)There is agreement on the proposition that no interim mandatory injunction order is required to restore any alleged position prior to the institution of the suit;
- (b)If the appellants have violated the interim order and carried out any construction, the same will have to be removed by the appellants, an aspect to be decided in the contempt petition;
- (c)The appellants will file their written statement within two (2) weeks;
- (d)Replication will be filed within two (2) weeks;
- (e)The suit will be listed for framing of issues and consideration of contempt petition on 01.11.2016.

Connected miscellaneous petitions are closed. The parties to bear their own costs.

Sd/-

Assistant Registrar(CS VII)

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Sub Assistant Registrar

sra

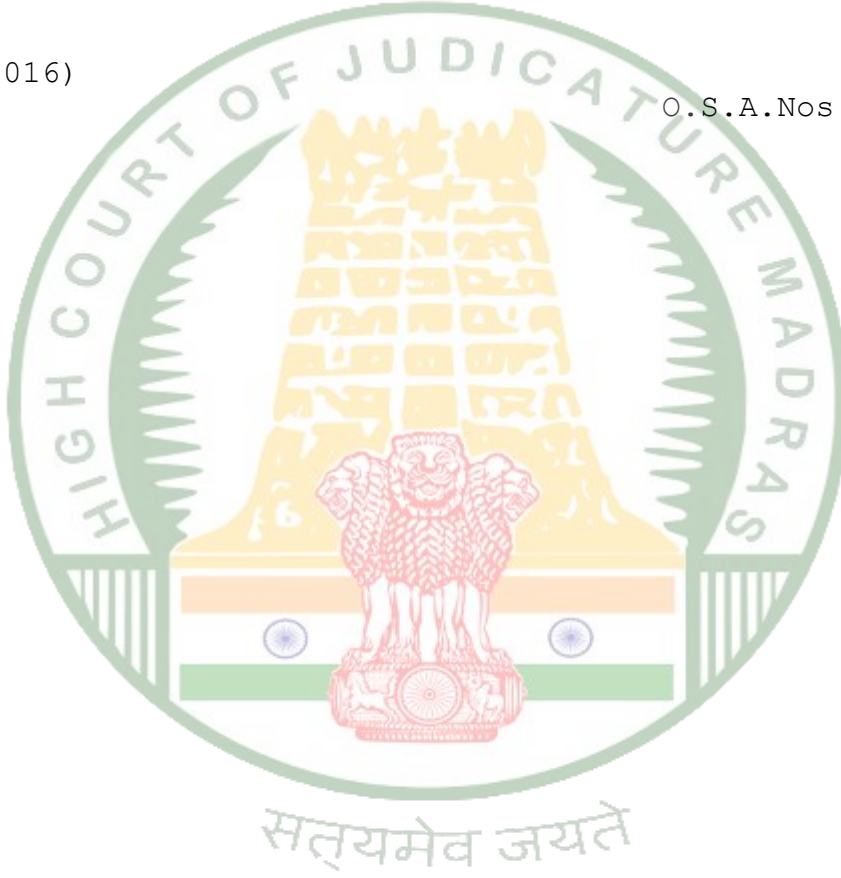
To

The Sub Assistant Registrar,
Original Side, Madras High Court,
Chennai.

+3ccs to M/s. R. Subramanian, Advocate, S.R.No.52451
+1cc to M/s Foxmandal and Asso., Advocate, S.R.No.52391

SSK(CO)
EU(26/09/2016)

O.S.A.Nos.397 to 399
of 2011



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