

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM

THE HONOURABLE MR. JUSTICE M.DURAIWAMY

C.R.P (NPD) No.2897 of 2016

1. K.Jayaraman
2. Dr.Muthu Jayaraman

.. Petitioners

vs.

1. Janaki
2. Raveendran
3. Madanlal Jain
4. H.Syed Hameed
5. Samsu Luha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the return Endorsement dated 06.07.2016 made in the memo Sr.No.56934 of 2015 dated 17.12.2015, filed in O.S.No.995 of 2007 on the file of the VIII Assistant, City Civil Judge, Chennai.

For Petitioners : Ms.G.Sumithra

For Respondents : Mr.V.N.A.Ghouse Gani (R4&5)
R1-3 given up

ORDER

Challenging the return Endorsement dated 06.07.2016 in memo Sr.No.56934 of 2015 in O.S.No.995 of 2007, on the file of the VIII Assistant, City Civil Judge, Chennai, the plaintiffs have filed the above Civil Revision Petition.

2. The Plaintiffs filed a suit in O.S.No.995 of 2007 for declaration, permanent injunction and mandatory injunction. The trial Court passed the decree, which reads as follows:-

“ 1. that the Plaintiffs admit that there is only a 10 feet common passage on the Eastern side of the defendant's house bearing Door No.32.

2. that the defendants 4 and 5 relinquish their right over the 10 feet common passage and they further agreed that the plaintiffs shall be exclusively entitled to the common passage measuring $67 \times 10 = 670$ sq.ft. Shown in red colour in the plan annexed hereto.

3. that the plaintiffs have paid a sum of Rs.30,00,000/- (Rupees Thirty Lakhs only) to the defendants 4 and 5 as consideration for the release of the common right of the defendants 4 and 5 in the said common pathway measuring $67' \times 10'$ leading to the plaintiffs house from Thirumalaipillai Road Lane.

4. that the defendants 4 and 5 shall not have any right over the pathway 670 sq.ft. leading from the plaintiff's house to Thirumalai Pillai Lane shown in red colour in the plan annexed hereto.

5. that the defendants 4 and 5 do admit and acknowledge the plaintiff's absolute title to the land measuring 2523 sq.ft., buildings and structures thereon and situated on the north of the pathway and the defendant's property.

6. that there be no costs in this suit”.

3. On a perusal of clause (2) of the decree, it could be seen that defendants 4 and 5 relinquished their right over the 10 feet common passage and they further agreed that the plaintiffs shall be exclusively entitled to the common passage measuring $67 \times 10 = 670$ sq.ft. shown in red colour in the plan annexed with the decree. Pursuant to the decree passed in the suit, the plaintiffs applied for the certified copy of the Judgment and decree dated 28.04.2015. However, the copy of the plan annexed with the decree was not furnished to the plaintiffs. Therefore, the plaintiffs filed a memo in Memo Sr.No.56934 of 2015 to direct the Registry to re-issue the certified copy of the decree along with Plan annexed to the compromise memo. The said memo was returned by the trial Court with a direction to approach the Copyist Superintendent for Annexure of the Plan in the decree. Against this order, the plaintiffs have filed the above Civil Revision Petition.

4. The learned counsel appearing for the respondents 4 and 5 submitted that when the defendants applied for the certified copy of the decree, the Registry of the trial Court had furnished them the plan annexed with the memorandum of compromise. The learned counsel also produced the certified copy of the decree along with the plan before this Court today. However, the learned counsel appearing for the respondents 4 and 5 submitted that he has no objection for allowing the Civil Revision Petition and plaintiffs may be furnished with the certified copy of the decree along with the plan annexed to the compromise memorandum.

5. In view of the submissions made by the learned counsel for the respondents 4 and 5, I direct the VIII Assistant Judge, City Civil Court, Chennai, to issue the certified copy of the decree along with the plan annexed to the compromise memo to the plaintiffs.

With these observations, Civil Revision Petition is disposed of. No costs.

14.11.2016

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To

VIII Assistant, City Civil Judge, Chennai.

M.DURAI SWAMY,J

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