

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) Nos.3100 to 3104/2016

S.Dillibabu : Petitioner

versus

1.Mangaldurai
2.Prabhu Arjun Singh
3.Sampath

4.The Chennai Metropolitan Development
Authority, rep. By its Member Secretary
Egmore, Chennai.

5.The Corporation of Chennai,
rep. By its Commissioner,
Egmore, Chennai : Respondents

PRAYER: Revision filed against the order dated 2.9.2016, in I.A.Nos.10725, 10726, 10832, 10732, 10831/2016 in O.S.No.2173 of 2000 on the file of the learned XV Assistant Judge, City Civil Court, Chennai.

For petitioner : Mr.S.Krishnasamy

For 1st respondent : Mr.D.Moses Jeyakaran

ORDER

These civil revision petitions are directed against the common order dated 2 September 2016, whereby and whereunder, the learned XV Assistant Judge, City Civil Court, Chennai, allowed the interlocutory applications in I.A.Nos. 10725, 10726, 10832, 10732, 10831/2016, subject to payment of cost. The petitioner is aggrieved only on account of the cost imposed by the learned trial Judge.

2. The learned counsel for the 1st respondent fairly submitted that the respondents are not insisting the petitioner to pay cost. According to the learned counsel, the respondents would be satisfied in case, the petitioner is ready for an early disposal of the suit.

3. The suit in O.S.No.2173 of 2000 was filed by the first respondent, praying for a decree of declaration and consequential injunction. The suit was opposed by the petitioner. The Trial Court appointed an Advocate Commissioner, after commencement of trial. The petitioner filed series of miscellaneous applications to reopen the evidence, to recall P.W.1, to recall the warrant issued to the Advocate Commissioner and to set aside the exparte order. The Trial Court having found that the petitioner was highly negligent, imposed cost. The petitioner is liable to pay a total cost of Rs.10,000/- in all these applications.

4. There is no dispute that there was a delay on the part of the petitioner, at every stage. The learned trial Judge imposed cost primarily on the ground that the petitioner filed the applications belatedly. The petitioner is aggrieved by the imposition of cost. The 1st respondent has no objection for setting aside the direction with regard to cost. I am therefore of the view that the impugned orders are liable to be modified by setting aside the direction with regard to payment of cost.

5. In the result, the impugned order dated 2 September 2016 is set aside, insofar as the direction regarding payment of cost is concerned. The learned trial Judge is directed to dispose of the interlocutory application in I.A.No.10831 of 2015 before taking up other applications. The suit is now posted on 9 November 2016. The petitioner is directed to cross examine P.W.1 on 9 November 2016 itself, without taking adjournment. Thereafter, the trial Court shall post the matter for evidence on the side of the defendants. The petitioner is directed to cooperate with the Trial Court for an early disposal of the interlocutory applications and ultimately the suit in O.S.No.2173 of 2000.

6. The civil revision petitions are allowed, as indicated above. No costs. Consequently, M.P.Nos.15792, 15793, 15794, 15795, 15796 of 2016 are closed.

26.10.2016

Index:Yes/no
tar

To

The XV Assistant Judge, City Civil Court, Chennai.

K.K.SASIDHARAN, J.

(tar)

C.R.P.(P.D.) Nos.3100 to 3104/2016

26.10.2016