

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2017

Coram

The Honourable **Mr.Justice RAJIV SHAKDHER**

and

The Honourable **Mr.Justice N.SATHISH KUMAR**

Original Side Appeal No.274 of 2017
and C.M.P.No.17746 of 2017

S.Murugan

.. Appellant

Vs.

M.Ghazala Nasreen

... Respondents

Prayer: Appeal filed under Order XXXVI Rule 9 of Original Side Rules read with Clause 15 of the Letters Patent, against the Order and Decree dated 05.10.2017 made in A.No.2163 of 2017 in O.A.No.61 of 2017 in C.S.No.44 of 2017 on the file of this Court.

For Appellant : Ms.Revathi
for Mr.B.Adalarasan

For Respondent : Mr.R.Vasudevan

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J U D G E M E N T

(Judgement of the Court was made by **RAJIV SHAKDHER, J.**)

1. This is an appeal preferred against the judgement and decree of the learned Single Judge dated 05.10.2017.

1.1. By virtue of the impugned judgement, the learned Single Judge disposed of O.A.No.61 of 2017 and A.No.2163 of 2017.

1.2. O.A.No.61 of 2017 was filed by the plaintiff who is the appellant herein and A.No.2163 of 2017 was filed by the defendant i.e. the respondent herein.

2. By virtue of the impugned judgement, the learned Single Judge vacated the interim injunction granted vide order dated 20.01.2016 and consequently dismissed O.A.No.61 of 2017.

2.1. Furthermore, the learned Single Judge directed the plaintiff to vacate and handover possession of the suit property to the defendant within a period of ten (10) days from the date of receipt of a certified copy of the judgement.

3. Aggrieved by the impugned judgement, the plaintiff has preferred the present appeal.

4. We had issued notice in the present appeal on 11.10.2017. On that date, the plaintiff i.e. the appellant herein represented by Mr.P.Wilson, learned senior counsel on instructions of Ms.Revathi, advocate had submitted that the interest of both parties could be protected, if the subject property lies vacant, till the disposal of the suit.

5. On return of notice, Mr.R.Vasudevan, enters appearance on behalf of the defendant i.e. the respondent herein. Mr.R.Vasudevan agrees with the submission advanced on behalf of the appellant that suit property be kept vacant pending disposal of the suit.

6. Accordingly, counsel for parties have agreed that the appeal can be disposed of based on the following directions:

(i) The plaintiff i.e. the appellant herein, will vacate the suit property on or before 15.01.2018.

(ii) The plaintiff / appellant herein will lock the premises and handover the keys to the learned Master of this Court.

(iii) The plaintiff / appellant will ensure that all belongings, furniture and personal effects are removed from the suit property before vacating the same.

(iv) The defendant/respondent will ensure that the written statement (which we are told was filed and is now required to be re-presented), will be re-presented after the removal of defects within a period of two weeks from the date of receipt of a certified copy of the order.

(v) Replication, if any, will be filed by the plaintiff / appellant within three weeks of receipt of a copy of the written statement.

(vi) The suit will be placed, immediately upon completion of pleadings by the learned Master before the learned Single Judge for framing of issues. In this behalf, the learned Master will adhere to the time line set out above for completion of the pleadings.

(vii) The learned Single Judge after framing of issues will place the matter before the learned Master for enabling the parties to file their affidavits of evidence and to have their respective witnesses cross examined.

(viii) The learned Single Judge will fix time lines for this purpose.

(ix) An endeavour will be made to conclude the adjudication in the suit by 20.04.2018.

(x) The suit property shall not be occupied either by the plaintiff / appellant or the defendant / respondent till the adjudication in the suit is completed and the final judgement and decree is passed in the matter.

(xi) Rights in the suit property, after adjudication, will abide by the result in the suit.

7. The captioned appeal is disposed of with the aforementioned directions. The impugned order is thus varied to the aforesaid extent. The connected miscellaneous petition is closed. No costs.

(R.S.A.,J) (N.S.K.,J)

07.12.2017

Speaking Order/
Non-speaking order

Index : Yes/No

Internet : Yes

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To

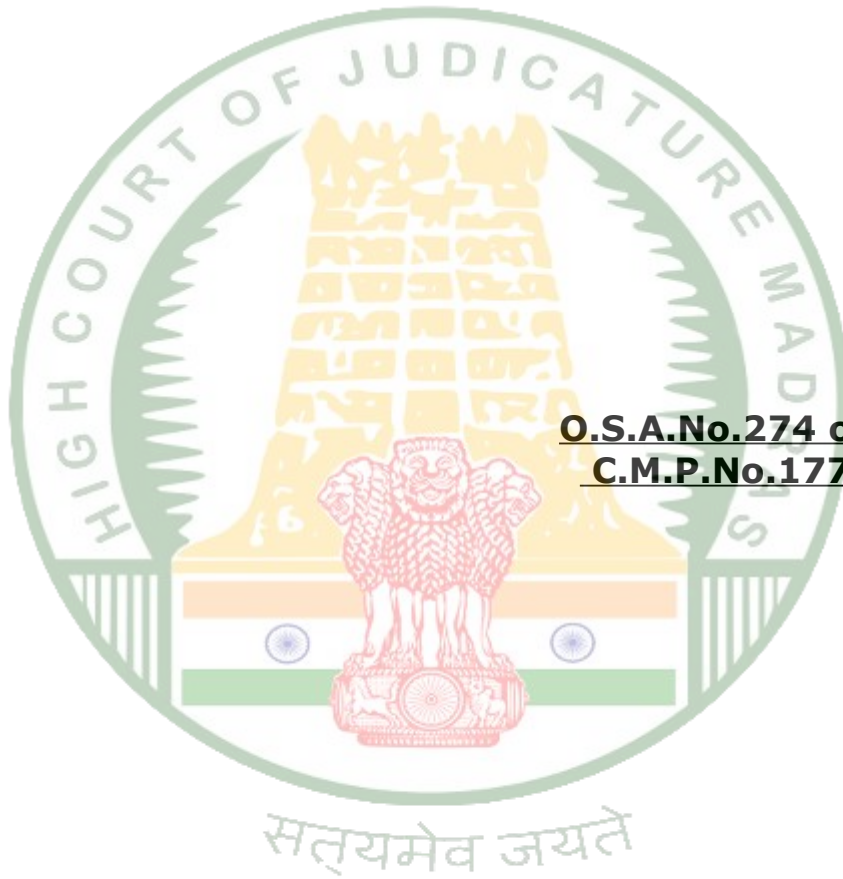
1. The Sub Assistant Registrar (Original Side),
High Court, Madras.

RAJIV SHAKDHER,J.

AND

N.SATHISH KUMAR,J.

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