

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2017

CORAM

**THE HON'BLE MR.JUSTICE RAJIV SHAKDHER
AND
THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE**

**O.S.A.No.45 of 2017
and C.M.P.No.3910 of 2017**

Vaani Estates Private Limited,
Rep. by its Director Mrs.Sasikala Raghupathi,
No.60, Old No.100, 4th Street,
Abhiramapuram,
Chennai – 600 018.

... Appellant

Vs.

1. Mr.Vyomesh Bipinchandra Shelat
2. Mrs.Raksha J.Goolry
3. Mr.Chetan Bipinchandra Shelat
4. Sri.Subashchandrav Someshwar Shelat
5. Sri.Rohit Someshwar Shelat
6. Sri.Anil Someshwar Shelat
7. Sri.Harnath Someshwar Shelat
8. Smt.Indhu Ben V.Joshi
9. Smt.Usha Ben G.Joshi
10. Sri.Manoj J.Shelat
11. Sri.Yaganesh J.Shelat
12. Sri.Hitesh J.Shelat
13. Smt.Harsha M.Joshi

... Respondents

** RR4 to 13 are deleted from the
array of parties vide Court Order dated
26.07.2017 made in O.S.A.No.45/2017

* * *

Prayer : Appeal filed under Order XXXVI, Rule 1 of Original Side
Rules read with Clause 15 of Letters Patent, to set aside the order
made in O.A.No.282 of 2014 in C.S.No.236 of 2014 dated
28.09.2016.

For Appellant : Mr.D.Ravichander

For Respondents : Mr.B.Harikrishnan for RR 1 to 3

JUDGMENT

(Judgment of the Court was delivered by Rajiv Shakdher, J.)

1. This is an appeal against the Judgment and Order of the learned Single Judge dated 28.09.2016.

2. Notice in this appeal was issued on 26.07.2017. On that date, at the say so of the learned counsel for the appellant, respondent No.4 to 13 were deleted from the array of parties.

2.1. Mr.B.Harikrishnan, learned counsel for respondent No.1 to 3, who was present at that time, is present in Court today as well.

2.2. With the consent of the learned counsels for the parties, the appeal is taken up for hearing and final disposal.

3. Mr.D.Ravichander, who appears for the appellant, says, while, the learned Single Judge has ruled that no prima facie is found case in favour of the contesting respondents, i.e., respondent No.1 to 3, a direction has been issued against the appellant not to alienate and encumber the subject property. Counsel for the appellant further says that while, the appellant is in the business of development of property and construction, the appellant has no intention of using the subject property, if and when, it is developed for commercial purposes.

4. As a matter of fact, the appellant, conceded as much before the learned Single Judge. In paragraph 18 of the impugned Judgment and Order, the learned Single Judge has noticed the stand taken before him by the appellant that it would use the construction put up on the subject property only for residential purposes. This submission as indicated above, is repeated before us.

5. Learned counsel also submits that, though, the impugned direction contained in paragraph No.20.1 of the learned Single Judge's Judgment and Order injuncts the appellant only from alienating and/or encumbering the subject property, it has created practical difficulty in as much it has given a handle to the contesting respondents, i.e., respondent No.1 to 3 to impede the development work, by approaching the Concerned Statutory Authorities and Project, albeit, wrongly that it is injuncted from carrying out development and/or construction work on the subject property.

6. Mr.B.Harikrishnan, who appears on behalf of respondent No.1 to 3, says, his clients, i.e. respondent No.1 to 3, have made no such assertions before the Statutory Authorities, and therefore, the apprehension expressed on behalf of the appellant is misplaced.

6.1. Learned Counsel further states that he undertakes on behalf of the respondent No.1 to 3, to not indicate to Statutory

Authorities anything else than what is contained in the impugned Judgment and Order and in particular, beyond what is noted in paragraph No.20.1 of the said Judgment.

6.2. The said undertaking given by the learned counsel for respondent No.1 to 3 on behalf of his clients, to this Court, is taken on record.

7. In the aforesaid circumstances, counsel for the appellant says he is satisfied with the outcome of the hearing and therefore, does not wish to press the appeal any further.

8. The appeal is, accordingly, disposed of in the aforesaid terms. Resultantly, pending application shall stand closed. There shall be, however, no order as to costs.

9. It is also made clear that after the subject property has been developed and built up, the appellant will have liberty to approach the learned Single Judge for variation of the order, if the circumstances so demand.

(R.S.A., J.) (A.Q., J.)
30.08.2017

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Speaking Order / Non Speaking Order

Index : Yes / No

Internet : Yes / No

To

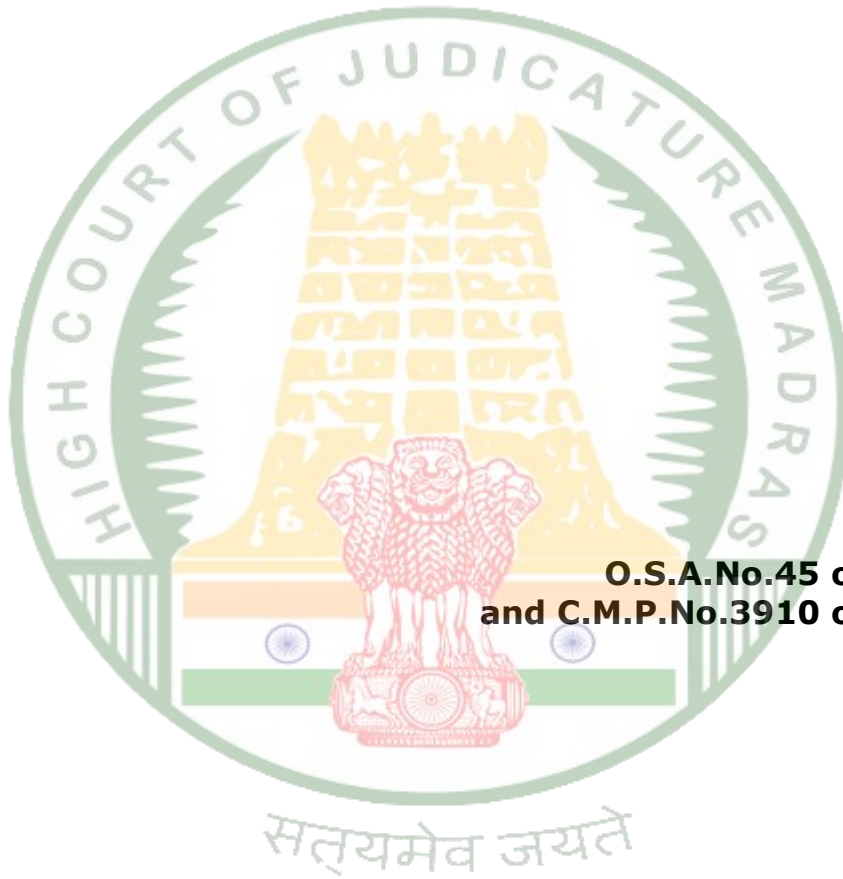
The Sub Assistant Registrar,
Original Side, High Court,
Madras.



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**RAJIV SHAKDHER, J.
AND
ABDUL QUDDHOSE, J.**

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