

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2019

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

REV.APPL.Nos.317 & 318 of 2018

and

C.M.P.Nos.23753 & 23754 of 2018

S.Dave Jeyaselvan ..Review Petitioner/Plaintiff
in both petitions

Vs

M.P.Ponraj ..Respondent/ Defendant
in both petitions

COMMON PRAYER: These Review Appeals filed under Order 47 Rules 1 and 2 r/w Section 114 of Code of Civil Procedure to review the order passed in CRP.(PD).Nos.1862 & 1864 of 2018 dated 11.10.2018 against the dismissal of the Fair and Decreetal Order dated 20.02.2018 passed in I.A.Nos. 6197 & 6196 of 2016 in O.S.No.5734 of 2013 on the file of VI Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.T.C.S.Raja Chockalingam For
Respondent : M/s.R.Gandhi, Senior Counsel
for Mr.M.Kamalanathan

C O M M O N O R D E R

The above Review Applications are filed challenging the order passed in CRP.(PD).Nos.1862 to 1865 of 2018. In the above petitions the order in CRP.(PD).Nos.1862 and 1864 of 2018 is the subject matter of review, since the entire order has been passed on a ex-facie erroneous appreciation of the order passed in Special Leave Petition observing that the Special Leave Petition has been disposed of holding the plaintiff to be permissive occupier of the suit premises. In paragraph 27 of the said order, the learned Judge has observed as follows:

"27.In view of the above submissions, it is the admitted fact that the defendant is the absolute owner of the suit building. The plaintiff is the permissive occupier of the suit premises. Originally, the plaintiff was granted injunction. Later, at the

instance of the defendant, the said injunction was vacated by the Hon'ble Supreme Court and the same reached finality. Hence, the plaintiff is a rank - I trespasser. At the same time, the defendant cannot claim counter claim in the suit filed by the plaintiff for permanent injunction. In any event, when the injunction granted in favour of the plaintiff was vacated by the Superior Court, the plaintiff is not entitled to have possession of the suit premises as since, the said order vacating injunction reached finality."

2 It is this erroneous assumption that has led to the passing of the order, ultimately, allowing the Civil Revision Petitions.

3 A perusal of the Special Leave Petition order would clearly indicate that Special Leave Petition was filed against the order allowing an amendment and not against the order granting injunction to the plaintiff.

4 In view of the above there is an error apparent on the face of the record, the Review Petitions are allowed, the Civil Revision Petitions are restored back to file and the parties are directed to make their final submission on 03.06.2019. No costs. Consequently, connected miscellaneous petitions are also closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The VI Assistant Judge,
City Civil Court,
Chennai.

Copy to

The Section officer
Judicial Section(Posting)
High Court, Madras 104.

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SV(CO)

SP(02/05/2019)