

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.04.2018

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No.137 of 2018

and

CMP No.708 of 2018

K.Sivalingam

... Petitioner/Petitioner/
Plaintiff

.Vs.

1.N.Subramani

2.Peria Nayaki

3.Kalai Selvan

4.Ravi Kumar

5.Arputharaj

6.Jaya Kumar

7.Prabhakaran

8.The Chairman,

TNSCB, Kamaraj Salai,

Chennai - 600 005.

...Respondents/Respondents/
Respondents

Prayer : Civil Revision Petition is filed Under Section 115 of Civil Procedure code to set aside the order passed in I.A.No.17674 of 2015 in Os No.4948 of 2015 on the file of VI Assistant City Civil Court - Chennai, dated 30.10.2017.

For Petitioner : Mr.R. Suresh Kumar

For Respondents 1-7 : Mr.Christopher Kishore Vincent

For Respondent 8 : Mr.Raja Sekar

O R D E R

This application has been filed to set aside the order passed in I.A.No.17674 of 2015 in O.S No.4948 of 2015 on the file of VI Assistant City Civil Court - Chennai dated 30.10.2017.

2. The learned counsel for the petitioner contends that the suit is barred by law and plaint was to be rejected, but, the Trial Court dismissed the application by not accepting the contention of the revision petitioner that the suit is barred by limitation and the learned counsel further contends that the Trial Court failed to note that as per Section 40 of the Tamil Nadu Slum Areas (Improvement and clearance) Act, 1971 in respect of any dispute regarding allotment, the Board is the competent authority to decide the same.

3. Mr. Christopher Kishore Vincent, learned counsel for the respondents 1 to 7 contends that there is no intention for the respondents to grab the property, as the property itself belongs to the petitioner, whereby the 8th respondent has already allotted the said plot to the respondents only.

4. Mr. Raja Sekar, learned counsel for the 8th respondent contends that the Tamil Nadu Slum Clearance Board has issued temporary allotment order to first respondent under tenement No.294/7, but it was locked by the Executive Engineer Zone III of Tamil Nadu Slum Clearance Board after the site inspection and he states that the Board will never allot the property to others, at any cost. He further contends that a letter dated 16.07.2015 was given to the petitioner which clearly states that there was a family dispute in the allotted plot and the Board cannot interfere in it which can be solved only through the Court.

4. The learned trial Judge, after hearing both the learned counsels, dismissed the application in I.A.No.176748 of 2015 in O.S.No.4948 of 2015, by an order dated 30.10.2017.

5. Aggrieved against the order passed by the Trial Court the revision petitioner approached this Court to set aside the order passed in the Trial Court.

6. Heard the learned counsel for the petitioner and perused the material placed before this Court.

7. The plaint is not hit by Order VII Rule 11(d) at the time of deciding the application to reject the plaint under Order VII Rule 11 the Court has to look into the pleading of the plaintiff and documents filed by the plaintiff for supporting his plaint claim but not either the defence of the defendants or their documents.

7. This Court is of the view that there is no infirmity or illegality in the order passed by the Trial Court, hence the parties are given liberty to approach the Trial Court and agitate the matter, after completing necessary pleadings. Considering the facts and circumstances, the Trial Court is directed to complete the pleadings as early as possible and dispose of the case within six months from the date of receipt of a copy of this order.

8. With the above observations this Revision petition is disposed of. Consequently the connected miscellaneous petition is closed. No costs.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

smn

To,

The VI Assistant Judge, City Civil Court - Chennai.

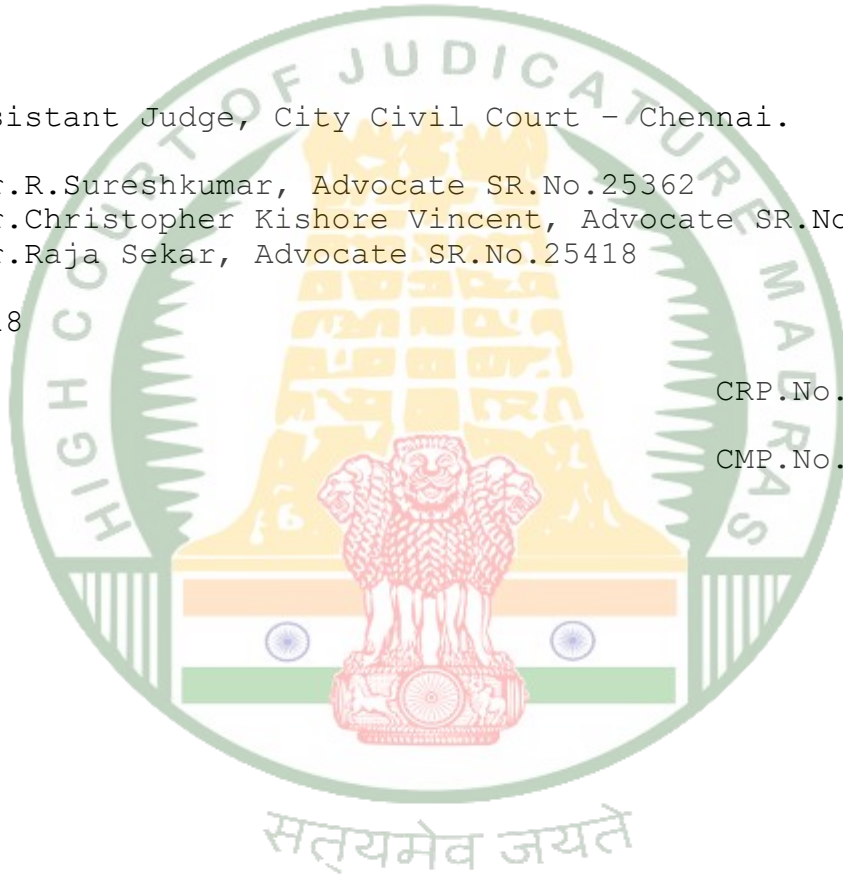
+lcc to Mr.R.Sureshkumar, Advocate SR.No.25362

+lcc to Mr.Christopher Kishore Vincent, Advocate SR.No.25664

+lcc to Mr.Raja Sekar, Advocate SR.No.25418

sm:6.6.2018

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