

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1029 of 2015 and
M.P.No.1 of 2015

1.M.Prabhakara Reddy

2.D.Ethiraj

.. Petitioners

(first petitioner represented
by his Power Agent Mr.D.Ethiraj
Cause title amended & accepted
vide order of Court dated 19/02/2015
made in M.P.Nos.1 & 2 of 2015 in
CRP.SR.No.5421 of 2015)

Vs.

M/S.Maxworth Home Ltd.,
Rep. by its authorised signatory
Mr.U.Sivakumar
No.50, Maxworth Nagar
Sunnambu Kolathur
Chennai – 600 117.

.. Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the
Constitution of India, against the petition and order dated
29.08.2013 made in I.A.No.1382 of 2013 in O.S.No.801 of 2013 on

the file of the Principal District Munsif Court, Alandur.

For Petitioners : Mr.Ravikumar paul, Senior Counsel
for M/S.Paul and Paul

For Respondent : Mr.G.Sundaram

ORDER

The Civil Revision Petition is filed against the petition and order dated 29.08.2013 made in I.A.No.1382 of 2013 in O.S.No.801 of 2013 on the file of the Principal District Munsif Court, Alandur.

2. The petitioners are defendants 1 and 2 and respondent is plaintiff in O.S.No.801 of 2013 on the file of the Principal District Munsif Court, Alandur. The respondent filed the said suit for declaration that the General Power of Attorney dated 27.08.2012 executed by the first petitioner in favour of the second petitioner is invalid and does not confer any power or right on the second petitioner to deal with the suit schedule property and for permanent injunction against the second petitioner. The respondent filed I.A.No.1382 of 2013 under Order II Rule 2 C.P.C. for permission to file a separate suit for specific performance of agreement of sale as

per clause 18 of the Agreement for Development and Construction, dated 03.09.1997 against the first petitioner. The learned Judge has given permission to the respondent to file separate suit.

3. Against the said order dated 29.08.2013 made in I.A.No.1382 of 2013, the present Civil Revision Petition is filed by the petitioners.

4. The learned Senior Counsel for the petitioners contended that the learned Judge has committed material irregularity in not ordering notice to the petitioners and giving an opportunity to the petitioners to put forth their case. The learned Judge in a mechanical manner allowed the application.

5. The learned counsel for the respondent has not disputed the fact that the application has been allowed without issuing any notice to the petitioners.

6. Heard the learned Senior Counsel for the petitioners as well as the learned counsel for the respondent and perused the materials available on record.

7. From the materials available on record, it is seen that the application was filed by the respondent on 29.08.2013 and the learned Judge has allowed the same on the same date. In view of the same, the Civil Revision Petition is allowed. The impugned order passed in I.A.No.1382 of 2013 is set aside and I.A.No.1382 of 2013 is remitted back to the trial Court. The learned Judge is directed to issue notice to the petitioners and hear their objection and pass orders in accordance with law. The learned Judge is also directed to dispose of the application within a period of three months from the date of receipt of a copy of this order after giving an opportunity to both the petitioners and respondent. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

09.02.2018

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Index:Yes/No

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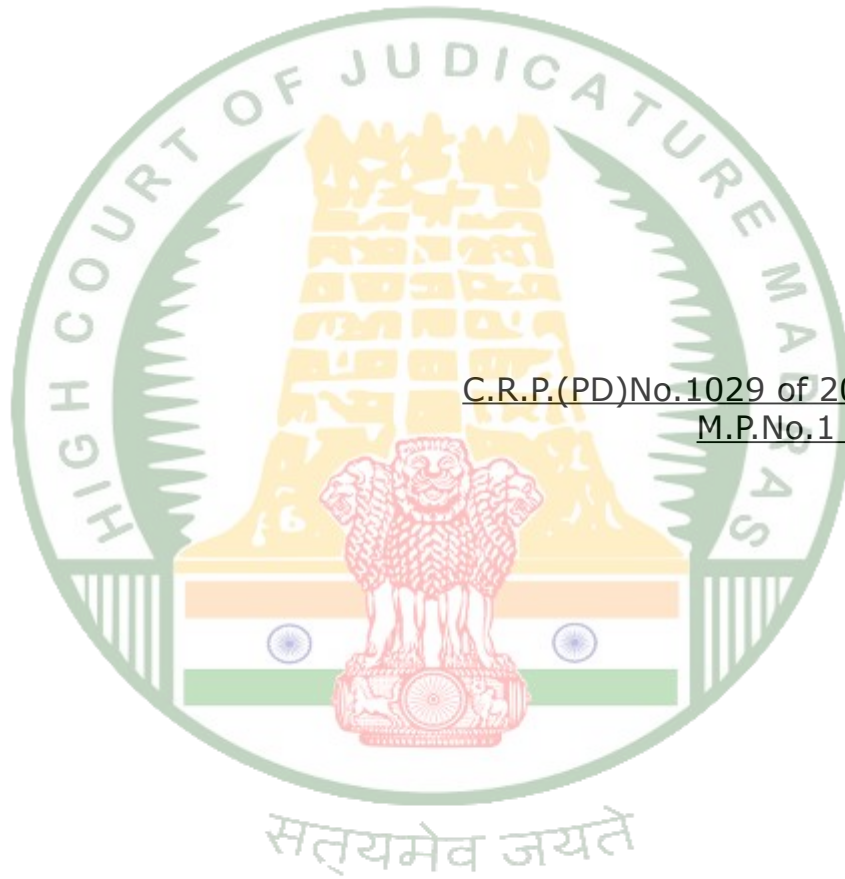
To

The Principal Distrit Munsif
Alandur.

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V.M.VELUMANI,J.

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M.P.No.1 of 2015

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