

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.1030 of 2015 and
M.P.No.1 of 2015

P.Dwarakanath

.. Petitioner

Vs.

1.M/S.Maxworth Home Ltd.,
Rep. by its Director
T.Palanivelu
No.50, Maxworth Nagar
Sunnambu Kolathur
Chennai – 600 117.

2.Dr.S.Srinivasan
3.D.R.Sasikumar

.. Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, against the docket order dated 21.02.2014 made in I.A.No.236 of 2014 in O.S.No.135 of 2014 on the file of the Principal District Munsif Court, Alandur.

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

For Respondents : Mr.G.Sundaram

ORDER

The Civil Revision Petition is filed against the docket order dated 21.02.2014 made in I.A.No.236 of 2014 in O.S.No.135 of 2014 on the file of the Principal District Munsif Court, Alandur.

2. The petitioner is third defendant, first respondent is plaintiff and respondents 2 and 3 are the defendants 1 and 2 in O.S.No.135 of 2014 on the file of the Principal District Munsif Court, Alandur. The first respondent filed the said suit for permanent injunction restraining the petitioner from disturbing the first respondent's possession of land and unfinished building in the suit schedule property. The first respondent filed I.A.No.236 of 2014 under Order II Rule 2 C.P.C. for permission to file a separate suit to declare the sale deed dated 25.10.2013 registered in favour of the petitioner as null and void. The learned Judge has given permission to the first respondent to file separate suit.

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3. Against the said order dated 21.02.2014 made in I.A.No.236 of 2014, the present Civil Revision Petition is filed by the petitioner.

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

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

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

7. From the materials available on record, it is seen that the application was filed by the first respondent on 21.02.2014 and the learned Judge has allowed the said application on the same date. In view of the same, the Civil Revision Petition is allowed. The impugned order passed in I.A.No.236 of 2014 is set aside and I.A.No.236 of 2014 is remitted back to the trial Court. The learned

Judge is directed to issue notice to the petitioner and hear his 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 petitioner and respondents. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

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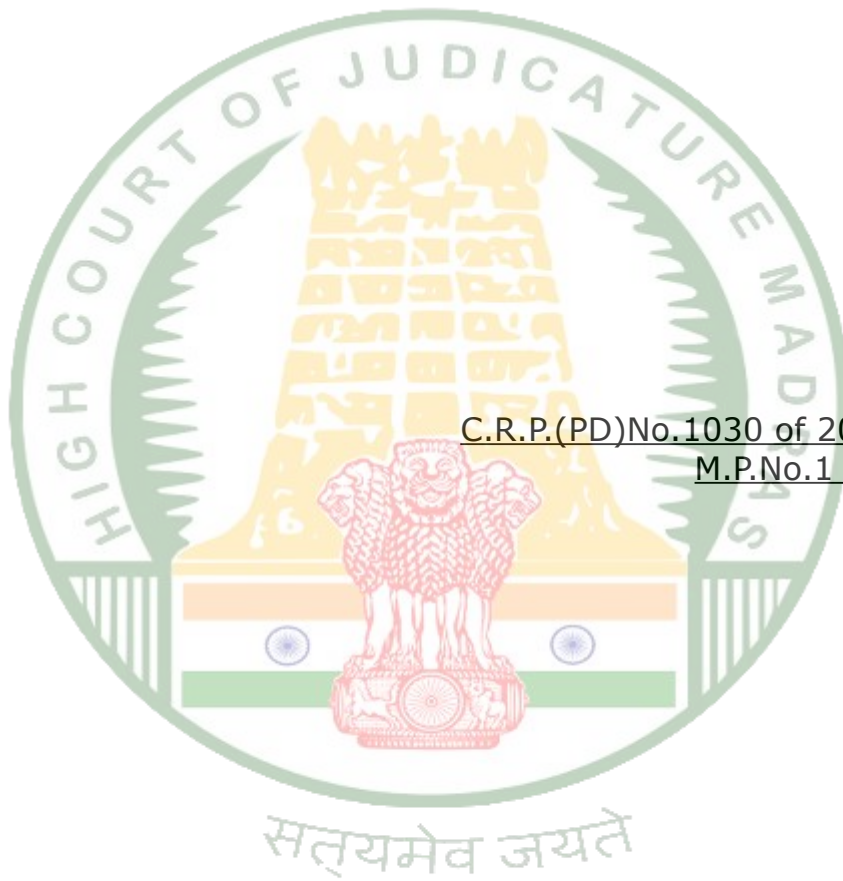
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V.M.VELUMANI,J.

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