



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Thirteenth day of April Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.RAVICHANDRABAABU
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CMP(MD) No.2479 of 2018
IN
AS(MD) No.244 of 2015

M.SAMYDURAI

... PETITIONER/RESPONDENT

Vs

M.DARMARAJ

... RESPONDENT/APPELLANT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to permit the petitioner to repair the roof and other incidental repair work in Item No.4 of the B Schedule suit property in Plot No.53 and to extent of 920 sq.ft. situated in Survey No.24, Gudalur Village, Chengalpattu Taluk Kancheepuram District pending disposal of the above appeal and thus render justice.

Prayer in AS(MD) . 244/2015 :

To prefer this Memorandum of Grounds of First Appeal against the decree and judgment dated 29.04.2015 made in O.S.No.26 of 2012 on the file Additional District Court, Pudukkottai.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.DEVARAJ, Advocate for the petitioner and of MR.P.THIYAGARAJAN, Advocate on behalf of the Respondent, the court made the following order:-

This Miscellaneous petition is filed by the respondent in the appeal, who is the plaintiff in a suit for partition. The petitioner seeks for permission to repair item No.4 of the B Schedule property in Plot No.53 measuring an extent of 920 sq.ft. Situated in Survey No.24, Gudalur Village, Chengalpattu Taluk, Kancheepuram District.

2.It is stated that the roof in Item No.4 of the B Schedule property is in a bad condition and needs immediate repair along with



other incidental repair works in the same property. Though a counter affidavit is filed by the respondent in this application, both sides fairly admitted that in respect of item No.3 of the B Schedule property, this Court, in C.M.P.(MD)No.5387 of 2017, dated 04.07.2017, permitted both the petitioner and the respondent to carry out the repair works in the said item to their respective portions, however, by making it clear that the parties shall not claim any equity. Therefore, it is submitted before us that the same order can be passed in respect of the present Item No.4 of the B schedule as well.

3.Considering the above stated facts and circumstances and also the order passed by this Court on 04.07.2017, in respect of other item, as stated supra, we are of the view that similar order can be passed in this petition as well.

4.Accordingly, this petition is ordered thereby permitting both the petitioner and the respondent to carry out the repair works in item No.4 of B schedule property in respect of their respective portions. It is made clear that the parties shall not claim any equity based on such work, undertaken by them, respectively, at the time of final dispose of the matter.

sd/-
13/04/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE ADDITIONAL DISTRICT JUDGE,
PUDUKKOTTAI

+1. C.C. to M/S.P.THIYAGARAJAN, Advocate SR.No.6183

ORDER
IN
CMP(MD) No.2479 of 2018
IN
AS(MD) No.244 of 2015
Date :13/04/2018

PK/PMI/VK/18.04.2018 : 2P/3C