



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

C.M.A.No.1587 of 2019

N.S.Abdul Jaleel

.. Appellant

Vs

1.N.Deivanayagam

2.KCEE Properties Private Limited,
Rep. By its Managing Director,
No.17, 3rd cross street,
CIT Nagar, Chennai - 35.

.. Respondents

Prayer: Civil Miscellaneous Second Appeal filed under Order 43 Rule 1 of Civil Procedure Code against the order dated 26.10.2018 made in I.A.No.1048 of 2018 in O.S.No.4601 of 2018 on the file of the IV Additional City Civil Court, Chennai.

For Appellant : Mrs.Indhu Karunakaran

For R1 : Mr.S.Parthasaray

For R2 : Mr.K.R.Rameshkumar

JUDGMENT

This appeal is directed against the order dated 26.10.2018 passed in I.A.No.1048 of 2018 in O.S.No.4601 of 2018 by the learned IV Additional City Civil Court, Chennai, dismissing the application filed by the appellant/plaintiff seeking to grant interim injunction restraining the respondents in any manner from continuing with the construction and interfering with the appellant's peaceful possession and enjoyment of the Schedule B property.

2. Heard the learned counsel appearing on either side and perused the materials available before this Court.

3. It is seen that the Tamil Nadu Housing Board had issued an allotment order to the owners of the Plot Nos.44 to 47, situated at Survey No.394/1 Part, KK Nagar, Chennai, equally allotting 5200 sq.ft. to each owner. It is also seen from the



report dated 10.09.2018 along with the sketch filed by the Advocate Commissioner that the Plot No.44 belonging to the first respondent herein is having 5570 sq.ft. as against 5200 sq.ft. originally allotted by the Tamil Nadu Housing Board, and on the other hand, the Plot No.46 belonging to the appellant herein/plaintiff is having only 4950 sq.ft., which is less than 250 sq.ft. It is also further stated by the Advocate Commissioner in his report that the exact boundaries of the suit property can be measured only with the help of the Taluk Surveyor. Therefore, it is not known how the Trial Court has considered the issue when the report filed by the Advocate Commissioner differs from the allotment order issued by the Tamil Nadu Housing Board.

4. It is submitted by the learned counsel for the appellant herein/plaintiff that the appellant/plaintiff has already moved an application seeking appointment of Land Surveyor from the Revenue Department before the learned Trial Court and it is coming up on tomorrow. If any such application is filed, the learned Trial Court is directed to consider the same and thereafter, on receipt of the report being filed by the Land Surveyor, the learned Trial Court shall dispose of the claim of the plaintiff on merits and in accordance with law within a period of four weeks thereafter. Till Such time, the parties are directed to maintain the status-quo.

5. With the above directions, the Civil Miscellaneous Appeal is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

rkm

To
IV Additional City Civil Court, Chennai.

+1cc to Mr.S.Parthasaray, Advocate SR.No.50828

+1cc to Mr.K.R.Rameshkumar, Advocate SR.No.51019

C.M.A.No.1587 of 2019

MP (CO)
GMY (16/08/2019)