

A.Nos.3083 and 3084 of 2019
and A.Nos.4230 and 4231 of 2017
in C.S.No.589 of 2017

K.KALYANASUNDARAM, J

A.No.3083 of 2019 has been filed to direct the respondents/defendants to deposit the original title documents in respect of the property situated at New No.29/12, Mahalakshmi Street, T.Nagar, Chennai-600017 morefully described in the schedule A of the Plaint by way of safe custody in a bank locker or with the Registry of this Hon'ble Court as may be directed by this Court.

2.A.No.3084 of 2019 has been filed to appoint an Advocate Commissioner to inspect the schedule C property to the plaint situated at New No.29/12, Mahalakshmi Street, T.Nagar, Chennai-600017 and note down its physical features including collecting details of the tenants, rental/business agreement entered into with the occupants of the premises obtain statement of income and expenditure relating to the property, etc. and submit a report to this Court pending disposal of the suit.

3.A.No.4230 of 2017 has been filed to appoint the applicant/plaintiff as Party receiver to administer and manage the affairs of the suit properties, morefully described in the Schedule C and Schedule D items 1 and 2 to the plaint appended to the Judges Summons, conferring upon him all such powers for management of the said properties, business, protection, preservation, improvement, collection of the rents and profits thereof or make such improvement, that may be necessary as enunciated under Order XL CPC.

4.A.No.4231 of 2017 has been filed to pass an prohibitory order prohibiting the Garnishee, M/s.Anjappar Authentic Restaurant situate at Nachiappa Park at No.12, Mahalakshmi Street, Theagaraya Nagar, Chennai - 600 017 from paying the business share payable to the owner of the premises.

5.According to the learned counsel for the applicant Mr.K.S.Viswanathan, A Schedule property was purchased on 25.06.1998 in the joint names of the applicant/plaintiff and the first defendant/first respondent and the B Schedule property was purchased in the names of the defendants 2 and 3 on 06.07.1998. It is the submission of the learned counsel that both the suit schedule properties were purchased from the joint family nucleus, but the applicant is denied of his share in the properties. Learned counsel for the applicant would further submit that though the applicant has filed an application for appointment of receiver, the first defendant himself can be permitted to act as a party receiver and a direction be issued to furnish the accounts periodically. It is further submitted that the title deeds are in possession of the first defendant and they shall not be allowed to be misused and in the interest of the parties, proper direction is required to be issued.

6.Mr.A.R.L.Sundaresan, learned senior counsel for the respondents 1 and 2 would submit that the entire suit schedule properties have been purchased by the first defendant from his own sources and they are self acquired properties of first defendant, in which the the applicant/plaintiff is not entitled to any share. He would add that in C.S.No.704 of 2016 filed by the first respondent, an undertaking was given by the first respondent not to

encumber the suit properties. The first defendant is ready to furnish accounts every month to the Court, for which, the learned counsel for the applicant has no objection.

7.In the light of the above facts, the applications are disposed of with the following directions:-

- (a) The first respondent shall file proper accounts for the income derived from the suit properties and expenditure thereon every month; and
- (b) The first respondent shall not encumber or alienate the suit schedule properties till the disposal of the suit.

8.Post the main suit on 25.11.2019 for filing draft issues.

cse / r n s

13.11.2019

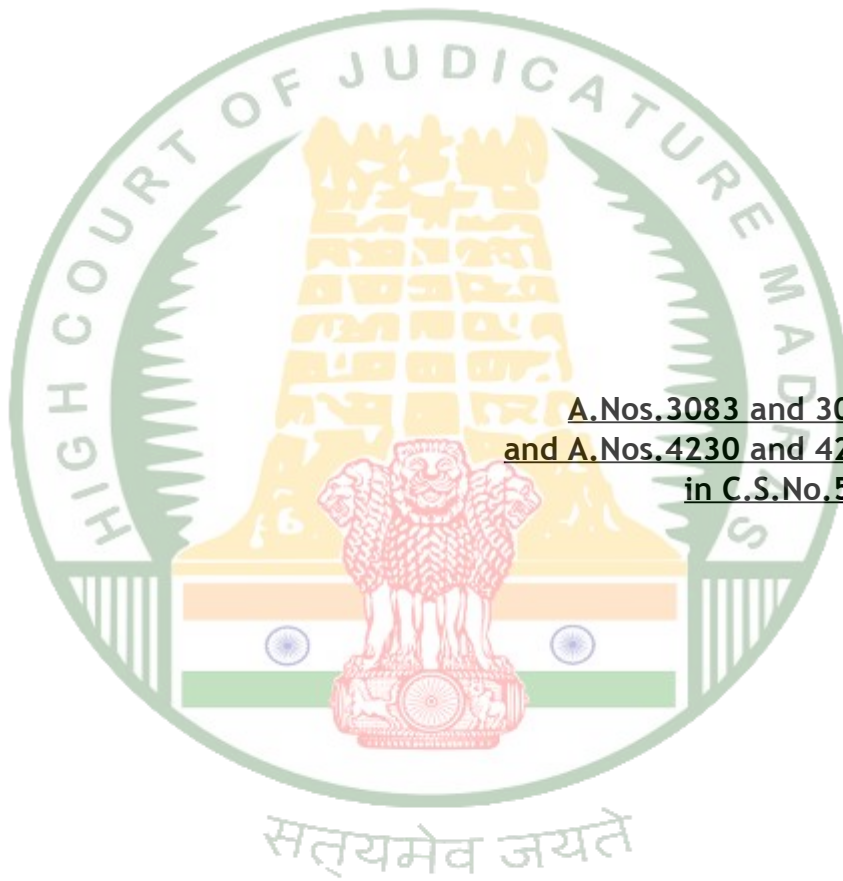
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