

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP.(PD).No.379 of 2016

1.Kandasamy

2.Kasthuri

..Petitioners/Defendants 2 & 3

Vs

1.K.Balakumaran

2.B.Rajathilagam

..Respondents 1 & 2/Plaintiffs

3.The Corporation of Chennai,
Rep. by its Commissioner,
Rippon Buildings,
Chennai.

..Respondent/ 4th Defendant

This Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal order dated 25.06.2015 in I.A.No. 14111 of 2014 in O.S.No. 6268 of 2010, on the file of the learned XII Assistant Judge, City Civil Court at Chennai.

For Petitioner : Mr.N.A.Nissar Ahmed
for Mr.R.Dhanasekar

For R1 & R2 : Mr.P.Nagaraju

For R3 : No appearance

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No.14111 of 2014 in O.S.No.6268 of 2010.

passing orders in the above Civil Revision Petitions are as follows:

The respondents 1 &2/plaintiffs had filed a suit O.S.No.6268 of 2010, on the file of the XII Assistant City Civil Judge, Chennai, for permanent injunction restraining the defendants 1 to 3, their men agents and servants from putting up constructions over the 'B' schedule property except in accordance with the approved building plan, Mandatory injunction directing the defendants 1 and 3 to demolish the offending constructions and failing their demolishing the structures, the third defendant should be directed to execute the same in the suit.

3 The 'B' Schedule was described as an extent of 1500 sq.ft in T.S.No. 125 bearing door No.5A and 5B, measuring approximately 1500 sq.ft in M.G.R Nagar Scheme Thiru Vi Ka Street. When the matter was posted for arguments and in particular, when the plaintiffs was to file their reply statement, the impugned application has been moved. In the said application, the plaintiffs had stated that they had committed a mistake in describing T.S number as well as the door number and the same was only a typographical error and instead of describing the proper T.S.No.127, it has been described as T.S.125 and likewise, the door number has been described as 5A and 5B instead of 5. The amendment being a

bona fide amendment, the plaintiff sought for the same being allowed.

4 The defendants had filed a detailed counter inter alia contending that even from the beginning they have been contending that the suit itself is not maintainable. Further the Sale Deed, in their name had been filed and therefore, the application was highly belated. Despite the counter filed by petitioners/Defendants 2&3, the learned XII Assistant City Civil Judge was pleased to allow the said application. Challenging the same CRP.No. 379 of 2016 is filed.

5 Heard Mr.N.A.Nissar Ahmed, learned counsel representing for Mr.R.Dhanasekar, the learned counsel appearing on behalf of the petitioners and Mr.P.Nagaraju, learned counsel appearing on behalf of the respondents 1 & 2.

6 It appears that the amendment is in respect of change in T.S. Number and the door number and there is no change to the boundaries or the nature or the subject matter of the suit and therefore, the order passed by the learned XII Assistant City Civil Judge does not require any reconsideration.

P.T.ASHA, J.

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7 In the result, the Civil Revision Petition is dismissed and the order passed in I.A.No. 14111 of 2014 in O.S.No. 6268 of 2016 dated 25.06.2015 by the learned XII Assistant Judge, City Civil Court at Chennai is confirmed. No costs.

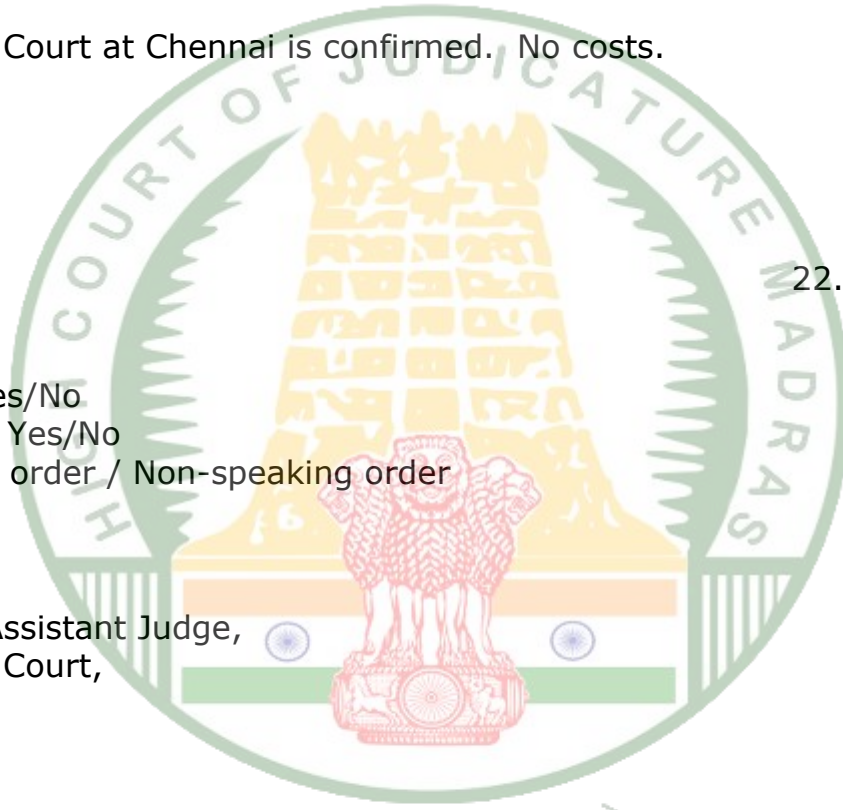
22.03.2019

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Index: Yes/No
 Internet: Yes/No
 Speaking order / Non-speaking order

To

The XII Assistant Judge,
 City Civil Court,
 Chennai.

CRP.(PD).No.379 of 2016

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