

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.3172 of 2014

and

MP.No.1 of 2014

A.T.Mahendran

... Petitioner

Versus

A.T.Manoharan

... Respondent

Civil Revision Petition filed under Section 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 26.06.2014 passed in I.A.No.1035 of 2014 in O.S.No.7508 of 2012 on the file of the XVII Assistant, City Civil Court, Chennai.

For petitioner : Mr.G.R.M.Palaniappan

For Respondent : No Appearance

ORDER

The petitioner is the plaintiff seeking to set aside the fair and decreetal order dated 26.06.2014 passed in I.A.No.1035 of 2014 in the suit in O.S.No.7508 of 2012 on the file of the XVII Assistant, City Civil Court, Chennai.

2.Heard both sides and perused the materials available on record.

3.After hearing the submissions made by the learned counsel for the

petitioner, it is seen that the suit was initially numbered in O.S.No.6977 of 2010 on the file of the III Assistant City Civil Court, Chennai and the suit was transferred and re-numbered as O.S.No.7508 of 2012 before the XVII Assistant City Civil Court, Chennai, seeking bare injunction against the petitioner herein (defendant in O.S.No.6977 of 2010), restraining him from interfering with repair and construction work carried on by him in the suit property.

4. Thereafter, the petitioner herein as a plaintiff filed the suit in O.S.No.7508 of 2012 before the XVII Assistant City Civil Court, Chennai, seeking injunction not to restraining from carrying any work at the site. After received summons on the two suits, the respondent filed an application in I.A.No.1035 under Section 10 of CPC to the said trial of the suit and the same was allowed. Hence, the present Civil revision petition.

5. On going through the schedule property in both suit properties are one and the same and the parties are also one and the same. Each parties are seeking injunction against other persons and it is now stated by the learned counsel is that originally the suit in O.S.No.6977 of 2010 has been filed by the respondent herein. After the trial, the suit has been dismissed on 25.07.2019 and whether any appeals are filed or not known.

6. Taking into consideration, the rival claims made by the parties in the suits have been one and the same and also the earlier suit, now

disposed of, and the following orders is passed in I.A.No.1035 of 2014 is in the interest of justice, is set aside and the present Civil Revision Petition is allowed with the direction to the XVII Assistant , City Civil Court, Chennai has to proceed the trial in accordance with law and dispose of the same, within a period of four months from the date of receipt of a copy of this order.

7.With the above observation and direction, the Civil Revision Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

05.12.2019

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order

klt

To

The XVII Assistant, City Civil Court, Chennai.

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RMT.TEEKAA RAMAN,J.,

klt



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