

**A.No.5879 of 2019 in A.No.2597 of 2019 in**  
**E.P.No.75 of 2017 in C.S.No.418 of 2013**

**K.KALYANASUNDARAM., J**

This application is directed against the order of the learned Master, dated 25.07.2019 made in A.No.2597 of 2019 in E.P.No.75 of 2017.

**2. The brief facts of the case would run thus:-**

The first respondent instituted a suit in C.S.No.418 of 2013 for declaration and delivery of possession of Plot Not.5, situated at Choolaimedu-Kodambakkam, Chennai-600 094 and the suit was decreed ex-parte on 06.11.2015. Subsequently, E.P.No.75 of 2017 was filed for delivery of possession. The applicants filed an Application No.2597 of 2019, under Section 47 of C.P.C., on the ground that there is no proper description of the suit schedule property. It was dismissed on 25.07.2019. Challenging the same, the present application.

3. Mr.R.Balachandran, learned counsel for the applicants would submit that the applicants are in possession of Plot No.6, but the first respondent is attempting to take possession by utilizing the Decree obtained

for Plot No.5. It is also contended that the applicants were not given opportunity to lead evidence to establish their case and that the applicants have filed an application to set-aside the Ex-parte Decree, but the Decree Holder is hurriedly attempting to evict the defendants in the suit.

4. *Per contra* Mr.A.Thiagarajan, learned Senior Counsel for the first respondent would submit that the Decree passed in C.S.No.418 of 2013 has attained finality and the suit property has been properly described with boundaries and there was no attempt made by the Decree Holder to take possession of the property of Plot No.6. It is further contended that even according to the applicants, there are not in possession of Plot No.5 and hence, they have no *locus standi* to file the application and it is an abuse of process of law.

5. In reply, the learned counsel for the applicants would submit that the submission of the learned Senior Counsel can be recorded and the applicants will not be aggrieved if there is no attempt made to evict them from Plot No.6.

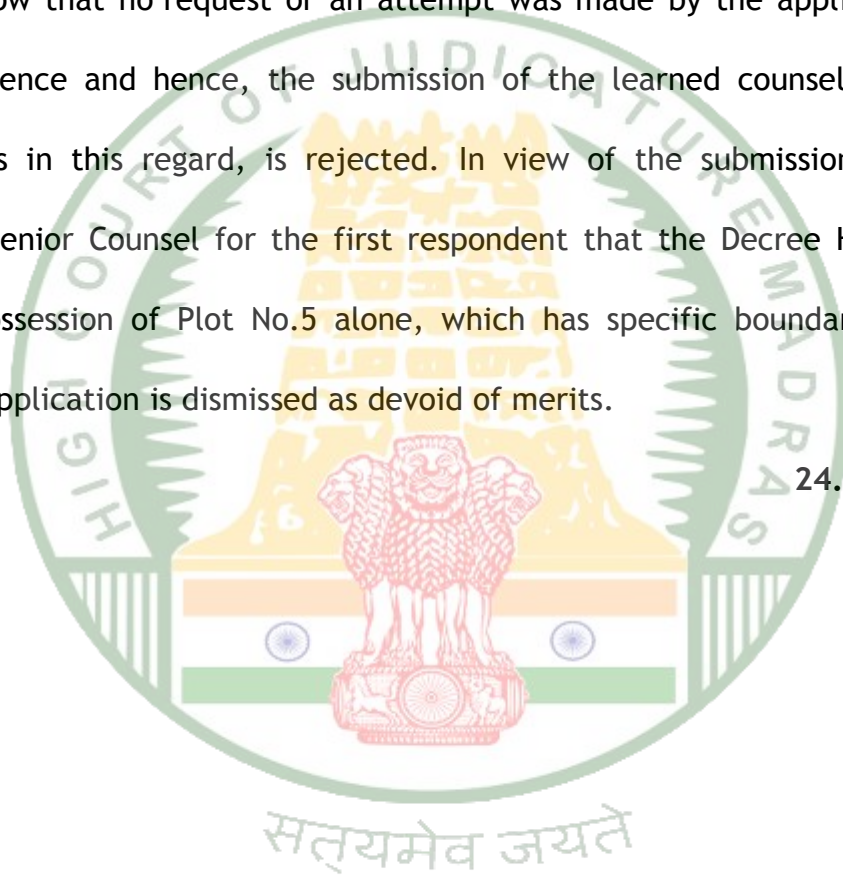
6. Heard the rival submissions and perused the materials available on

record.

7. A perusal of the order of the learned Master, dated 25.07.2019 would show that no request or an attempt was made by the applicants to lead evidence and hence, the submission of the learned counsel for the applicants in this regard, is rejected. In view of the submission of the learned Senior Counsel for the first respondent that the Decree Holder is taking possession of Plot No.5 alone, which has specific boundaries, the present application is dismissed as devoid of merits.

24.10.2019

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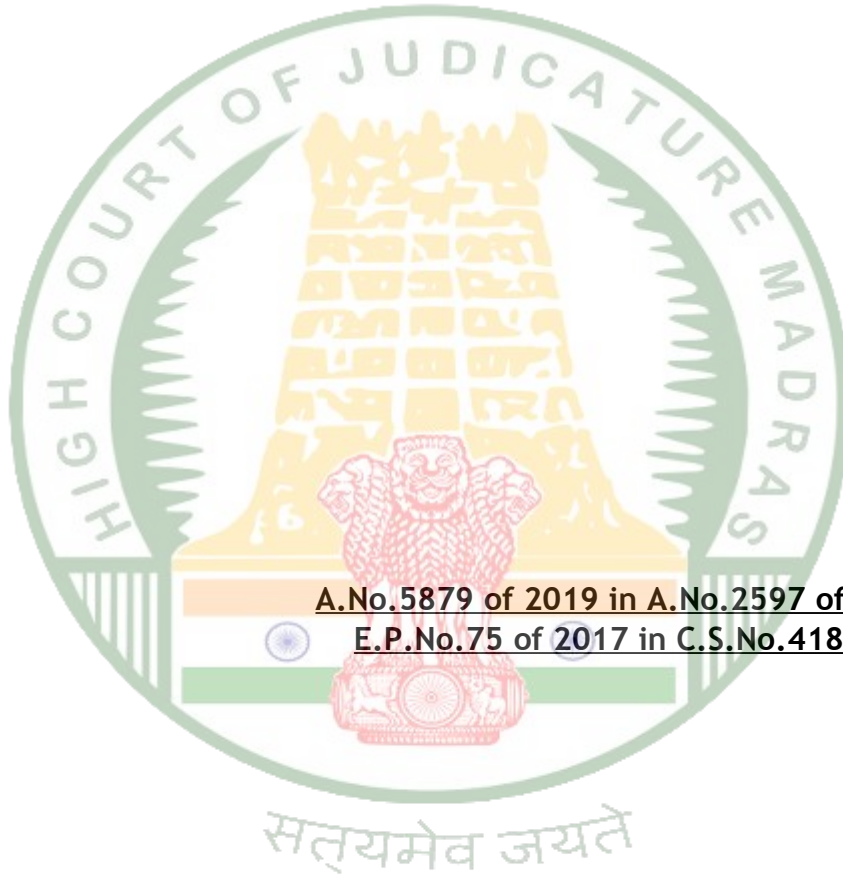


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