

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRP.(NPD)No.3653 of 2018

Ashok Leyland Employees Co-operative
Industrial Housing Society
Represented by its President
Ramasamy Mudaliar Nagar,
Thiruvottiyur,
Chennai-600 019

.. Petitioner

Vs

Vivekanandha Arts and Educational Society,
By its Chairman, Aadhimoolam,
Ramasamy Mudaliar Nagar,
Thiruvottiyur,
Chennai-600 019.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decreetal order dated 07.06.2018 in I.A.No.1216 of 2015 in O.S.No.193 of 1998, on the file of District Munsif Court, Thiruvottiyur.

For Petitioner

: M/S.R.D. Ashok Kumar
for M/S.S.N. Ravichandran

For Respondent

: Mr.K.Prabakaran

ORDER

The subject matter of the suit property in O.S. No.193 of 1998 is the land measuring 4000 sq. ft. in Survey No.618/B1 in Tiruvottiyur village. The suit is filed by the respondent herein for permanent injunction restraining the petitioner herein from interfering with the peaceful possession and enjoyment of suit properties, except by due process of law. The said suit came to be decreed on 31.12.2003.

2. Subsequent to the decree, the then Special Officer of Ashok Leyland Employees Co-operative Industrial Housing Society had executed a lease deed, dated 11.04.2005 in favour of the petitioner for half of the suit property and sale deed, dated 11.05.2005 for the other half of the suit properties. The extent in both these registered documents covers the entire suit properties.

3. The order under challenge in the present revision is an order of dismissal of the petitioner's application to condone the delay of 3720 days in setting aside the ex-parte order of dismissal in the original suit.

4. The limited relief sought for by the respondent herein in the suit is to forbear the petitioner herein from evicting or disturbing the respondent's

possession, unless under due process of law. In view of the subsequent execution of the registered lease deed, dated 11.04.2005 and the sale deed dated 11.05.2005, the entire cause of action for the suit has ceased to exist and as such, the respondent herein may not have a valid defence in the said suit property, for the relief of injunction.

5. The learned counsel for the petitioner also claims to have filed a suit, seeking to set aside the registered lease deed as well as the sale deed. Such claim of institution of the suit is denied by the respondents herein.

6. Nevertheless, if at all the petitioner is agreed against the respondents possession over the properties in question, it would always be open to him to invoke due process of law for the purpose of setting aside the registered documents, subject to the law of limitation. Since, the petitioner claims to have instituted such a suit, the option available to the petitioner at this juncture would only be to pursue the same.

7. It is seen that this Court has entertained in CRP Nos. 994 of 2017 and 1202 of 2017 in identical cases and had also condoned the delay in filing the application to set aside the ex-parte order. However, it is brought to the notice of this Court that in those cases, the respondents therein were encroachers, who were not conveyed with any rights over the property in question, whereas in the

instant case, the then Special Officer of the petitioner's Society seems to have executed lease and sale deeds in favour of the petitioner and as such the earlier orders of this Court cannot be termed to cover the issue.

7. As such, granting of any relief in the present revision to enable the petitioner to pursue the original suit in O.S. No.193 of 1998 may not be proper and no useful purpose would also be served to either of the parties, in view of the subsequent developments of executing the lease deed and sale deed in favour of the petitioner. Hence, I do not find any reason to interfere with the order passed in I.A. No.1216 of 2015 in O.S.No.193 of 1998 on the file of the learned District Munsif Court, Thiruvottiyur. Accordingly the Civil Revision Petition stands dismissed. No costs.

21.01.2019

Index: Yes/No

Internet: Yes/No

Speaking order / Non speaking order

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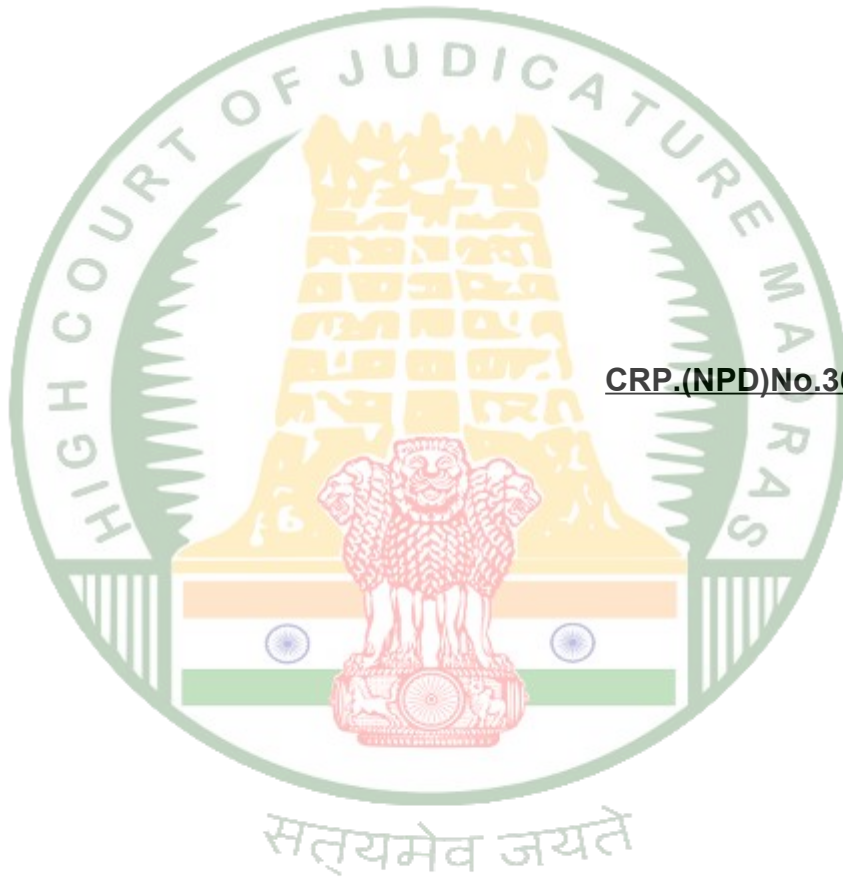
The District Munsif Court, Thiruvottiyur.



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M.S.RAMESH, J.

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