IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.461 of 2021

Mrs. V. Rukmani ... Petitioner

Vs.

Mrs. V. Ananthi ... Respondent

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying for a direction to dispose of the O.S. No.222 of 2015 on the file of the Hon'ble Additional District Munsif, at Alandur, within a stipulated time period as fixed by this Hon'ble High Court.

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For Petitioner ... Mr.T.S. Charles

For Respondent ... No Appearance

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O R D E R

This Civil Revision Petition has been filed praying for a direction to dispose of the O.S. No.222 of 2015 on the file of the Hon'ble Additional District Munsif, at Alandur, within a stipulated time period as fixed by this Court.

2. The case of the petitioner is that the petitioner herein is the plaintiff who has filed O.S. No.222 of 2015 on the file of the Additional District Munsif, Alandur, seeking for a direction to the defendant to remove the illegal and unauthorized Asbestos Cement Sheet House measuring 15' X 20' in the front side of the plaintiff's suit property and to grant permanent injunction restraining the defendant, from in any manner, from interfering with the possession and enjoyment of the suit property. As the same is pending from the year 2015, the petitioner has filed the present Civil Revision petition seeking for a direction to the Court below to dispose of the aforesaid suit within a time frame fixed by this Court.

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3. The learned counsel for the petitioner would submit that the petitioner herein is old age about 82 years who is the absolute owner of the property bearing Plot No.4, Kovalan 3rd Street, Ola Pallavaram, Chennai - 600 043 (Approved Plot vide L.A. No.164/1973) measuring an extent of 2140 Sq.feet. comprised in survey no.50/29-part, Jamin Pallavaram Village. The same was purchased from one Mr. K.Sasikanth Shetty S/o. Kamalesh Shetty through a Sale Deed dated 01.11.1989 which was registered as Document No.3742 of 1989 on the file of S.R.O., Pallavaram and also obtained Patta in her name and enjoying the suit property till date without creating any encumbrances whatsoever. While being so, as the defendant/respondent herein is interfering with the suit property of the plaintiff by putting up Asbestos and other alteration in the said suit property, the plaintiff/petitioner herein has filed the suit under order VII R1 r/w.Section 26 of C.P.C. in O.S. No.222 of 2015 on the file of the Additional District Munsif, Alandur. The defendant/respondent herein has filed the Written statement before the Trial Court replying on the averments made in the pleadings. Thereafter, the plaintiff/petitioner herein deposed her evidence and marked all the relevant documents pertaining to the suit as exhibits. Further, the learned

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counsel for the defendant/respondent herein cross examined the plaintiff/petitioner herein and made endorsement that the plaintiff evidence is over. Thereafter, the Trial Court posted the suit for the evidence of the defendant/respondent herein in the year 2017. Even after taking adjournment for more than a year through her counsel, the defendant/respondent herein has not appeared and deposed her evidence before the Trial Court. Instead, the defendant/respondent has filed an Interim application in O.S.No.222 of 2015 seeking for a appointment of Advocate Commissioner to inspect the suit premises which was allowed by the Trial Court in the year 2018. According to the order passed by the Trial Court, the Advocate Commissioner inspected the suit premises in the year 2018, but till date the report of inspection has not been submitted by him. On failure of the submission of the Inspection report before the Trail Court, the suit process is getting delayed from the year 2018 and hence this Court may direct the Advocate Commissioner to file his inspection report before the Trial Court and the Trial Court for early disposal of the suit within a time frame fixed by this Court.

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4. Heard, the learned counsel for the petitioner and perused the material available on record.

5. On a perusal of the record, it is seen that the suit has been filed on 09.01.2015 and after numbering the suit, the same was posted for hearing on 03.02.2021 before 2nd Additional District Munsif, Alandur. Thereafter, the case has been adjourned from time to time from 01.07.2015 to 03.02.2021 on the ground of issue of process, evidence and orders etc. It has been stated by the learned counsel for the petitioner that the Advocate commissioner has inspected the suit premises in the year 2018 itself as directed by the Trial Court. However, the inspection report has not been submitted by him before the Trial Court till date. But, it has not been mentioned in the history of hearing of the Trial Court.

6. Having considered the aforesaid facts and circumstances of the case, as the suit in O.S. No.222 of 2015 has not proceeded with further due to non-filing of the inspection report, the Advocate Commissioner is directed to file his Inspection report within a period of four weeks from the date of receipt of copy of this order. Further, the plaintiff/petitioner

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V.BHAVANI SUBBAROYAN, J.,

lbm

has filed the suit claiming as the owner of the suit property and the same is pending from the year 2015, the Trial Court is directed to proceed further with the Trial and dispose of the same within a period of nine months from the date of receipt of copy of this order.

7. In the result, this Civil Revision Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

08.03.2021

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

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To:
The Additional District Munsif,
Alandur,

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