

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD)Nos.2876 & 2877 of 2015
and M.P.Nos.1 & 1 of 2015

P.Jayaraman

.... Petitioner in
both CRPs.

Vs.

1. M/s.Amraa Properties Pvt Ltd.,
Rep by its Managing Director,
Mr.L.Saleem Pasha
S/o. Liaquath Pasha
Having office at
2nd Floor, SIET,
Administrative Building,
No.54, K.B.Dasan Road,
Teynampet,
Chennai - 600 0018.

2. Audhiappan
3. S.Valli
4. Seeyathammal
5. T.Vijayakumar

.... Respondents
in both CRPs

Prayer in C.R.P.2876 of 2015:- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order

dated 19.01.2015 made in I.A.No.6664 of 2014 in O.S.No.13508 of 2010 passed by the VI Additional City Civil Court, Chennai.

Prayer in C.R.P.2877 of 2015:- Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decretal order dated 19.01.2015 made in I.A.No.6665 of 2014 in I.A.No.1599 of 2011 in O.S.No.13508 of 2010 passed by the VI Additional City Civil Court, Chennai.

For Petitioner
in both CRPs : Mr.Vedavallikumar

For Respondents
For R1 : Mr.Asif Ali
For R2, R3 & R5 : Mr.N.Senthil Kumar
For R4 : Not ready in notice

COMMON ORDER

These Civil Revision Petitions are directed as against the fair and decretal order dated 19.01.2015 passed by the learned VI Additional Judge, City Civil Court, Chennai in I.A.No.6664 of 2014 in O.S.No.13508 of 2010 and I.A.No.6665 of 2014 in I.A.No.1599 of 2011 in O.S.No.13508 of 2010 respectively, thereby dismissing the petitions filed by the petitioner to amend the schedule in the plaint and in I.A.No.1599 of 2011.

2. In both the Civil Revision Petitions, the petitioner is the plaintiff. The petitioner filed suit as against the respondents for mandatory injunction to remove the drainage pipe/electricity lines/water line embedded in the petitioner's property and to remove all the encroachment and also for permanent injunction. Initially the suit was filed before this Court and thereafter, transferred to the Court below on the ground of pecuniary jurisdiction. The petitioner filed suit along with an application in I.A.No. 1599 of 2011 to appoint an Advocate Commissioner.

3. While pending both the suit & application, the petitioner came to understand that the extent of the property was not mentioned in the plaint schedule and also in the boundaries. Therefore, the petitioner filed petition for amendment in the plaint as well as the application for appointment of Advocate Commissioner. The Court below dismissed the same for the reason that the petitioner came to know about the boundaries only after inspection of the Advocate Commissioner and therefore, the petitioner is not aware of the boundaries of the suit property at the time of filing the suit.

4. It is seen that the above petitions have been filed for seeking amendment in the petition for appointment of Advocate Commissioner as well as the original plaint. Without even seeing the same, the trial Court mechanically dismissed the petitions for flimsy reasons. That apart, the amendment sought for in the plaint would not change the nature of the suit and also the cause of action of the suit. Door No and address of the schedule property have not been changed by way of amendment and only to amend the extent of the property, the petitioner filed these petitions. It would not cause any prejudice to the respondents. Therefore, the order passed by the Court below is perverse and liable to be interfered.

5. Accordingly, the common order dated 19.01.2015 passed by the learned VI Additional Judge, City Civil Court, Chennai in I.A.No.6664 of 2014 in O.S.No.13508 of 2010 and I.A.No.6665 of 2014 in I.A.No.1599 of 2011 in O.S.No.13508 of 2010 respectively is hereby set aside. The trial Court is directed to allow the petitioner to amend the plaint as well the petition in I.A.No.1599 of 2011. However, the respondents are at liberty to file additional written statement for the amendment made in the plaint.

6. With the above directions, both the Civil Revision Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

03.02.2021

Internet : Yes

Index : Yes/No

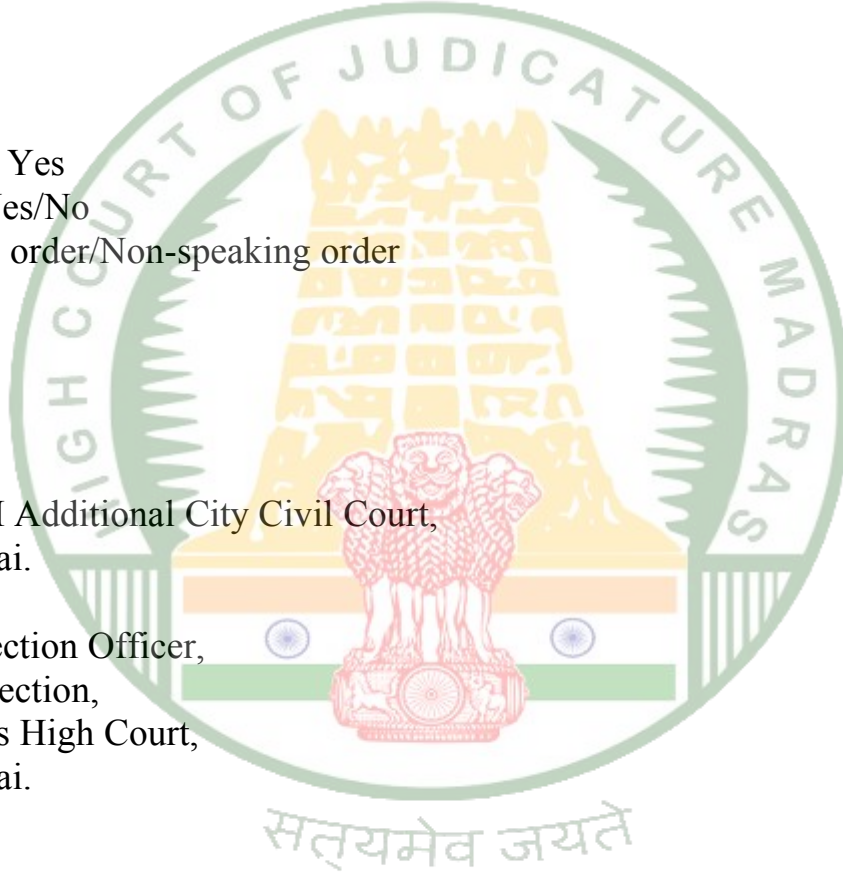
Speaking order/Non-speaking order

rts

To

1. The VI Additional City Civil Court,
Chennai.

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

rts



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