

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

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

CRP(PD).No.1746 of 2018

and

CMP.No.9571 of 2018

C.H.S.Gopi

... Petitioner

Vs.

1. Thiruvottiur Nagara Vanniyarkula Shakthiriyar Trust

Represented by its Trustees

1. V.M.Gajapathy

2. R.Murugesan

3. Panneerdoss

4. S.Egambaram

5. R.Dakshinamoorthy

6. V.V.Arasu

7. V.Gnanasekar

8. R.Bhoopathy

9. T.M.Senthil

10.M.Mani Naicker

11.S.Parthiban

12. P.Jeyakumar

13. Aeegounder

14. G.Sankar

15.N.Dilli

2. The Commissioner,
Chennai Corporation,
Rippon Building,
P.H.Road, George Town,
Chennai 600 003.

3. The Regional Deputy Commissioner (North)
Chennai Corporation,
Basin Bridge Road,
Chennai-60 079.

4. The Executive Engineer,
Zonal Office Zone-1,
No.947, T.H.Road,
Thiruvottiyur,
Chennai 600 019.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 12.02.2018 made in I.A.No.54 of 2016 in O.S.No.3 of 2015 on the file of the District Munsif Court at Thiruvottiyur.

For Petitioners : Mr.P.Valliappan

For Respondents

For R1 : No appearance

For R2 to R4 : M/s.Karthika Ashok

ORDER

This Civil Revision Petition is directed against the fair and decretal order dated 12.02.2018 passed in I.A.No.54 of 2016 in O.S.No.3 of 2015 on the file of the learned District Munsif, Thiruvottiyur, thereby dismissing the petition to implead the petitioner as proposed defendant in the suit filed by the first respondent.

2. The first respondent is the plaintiff and the petitioner is the proposed defendant in the suit. The first respondent filed a suit as against the respondents 2 to 4 herein for permanent injunction restraining them from sealing or demolishing the suit property, on the strength of the order dated 09.09.2014. Pending the suit, the petitioner filed a petition to implead himself as proposed defendant in the suit for the reason that he is the owner of the suit property by virtue of settlement deed dated 15.03.2002. While that being so, the first respondent encroached upon a portion of the petitioner's property and also constructed a massive building, without obtaining any planning permission or approval from the competent

authorities. Therefore, the petitioner lodged a complaint before the authorities concerned. Since the authorities concerned did not take any action, the petitioner filed a Writ Petition before this Court in W.P.No.12506 of 2013 for a direction to direct the officials to take appropriate action/demolish the illegal superstructure put up by the first respondent herein. This Court directed the authorities concerned to conduct enquiry and pass orders. Accordingly, the second respondent conducted enquiry and passed orders on 19.05.2014 for lock and seal in respect of the property which belonged to the first respondent. It was challenged by the first respondent by way of Writ Petition in W.P.No.13395 of 2014 before this Court and thereafter, it was withdrawn with liberty to file an appeal before the Appellate Authority. While that being so, the first respondent, without filing any appeal, filed the present suit for bare injunction by virtue of the order dated 09.09.2014.

3. In fact, the petitioner is the party in the writ petition filed by the first respondent in W.P.No.13395 of 2014. The petitioner only initiated proceedings as against the first respondent and as such, he is a necessary and proper party in the suit filed by the first respondent. In fact, the earlier

suit filed by the first respondent in O.S.No.225 of 2013, in which the petitioner has filed a petition to reject the plaint, was allowed by an order dated 28.10.2015. Without considering the same, the Court below dismissed the petition to implead himself as proposed party to the suit filed by the first respondent for the reason that if the petitioner is having any claim over the suit property, he has to file a separate suit.

4. In view of the above discussion, the order passed by the Court below is perverse and illegal and it is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the order passed in I.A.No.54 of 2016 in O.S.No.3 of 2015 dated 12.02.2018 is set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

23.04.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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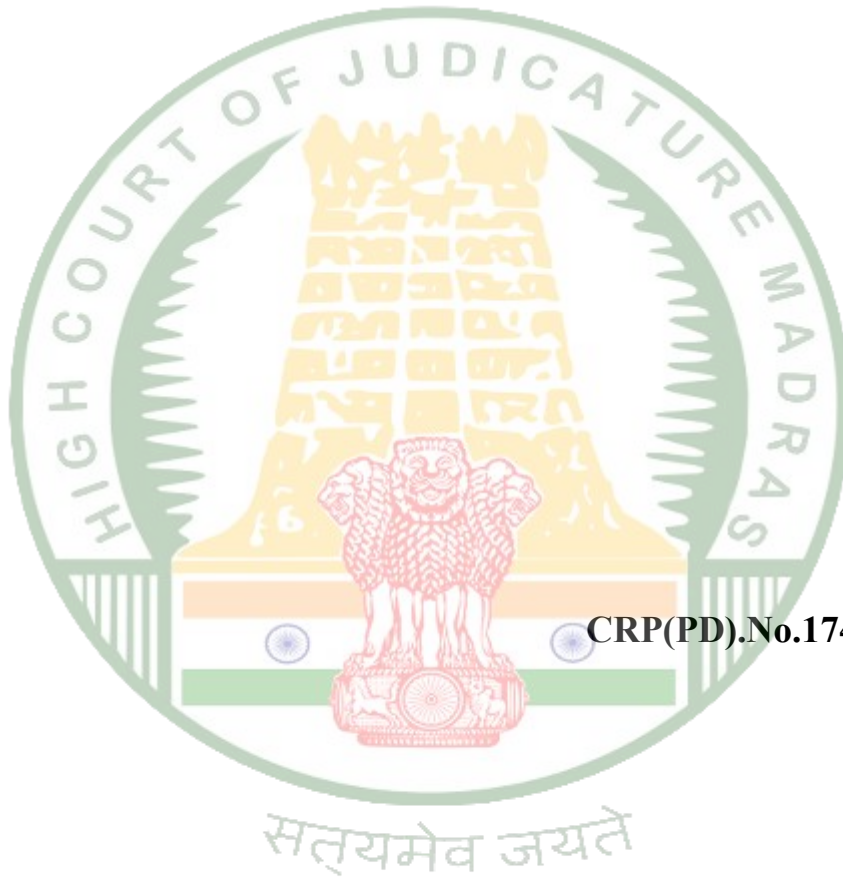
To

1. The District Munsif, Thiruvottiyur.

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

G.K.ILANTHIRAIYAN,J.

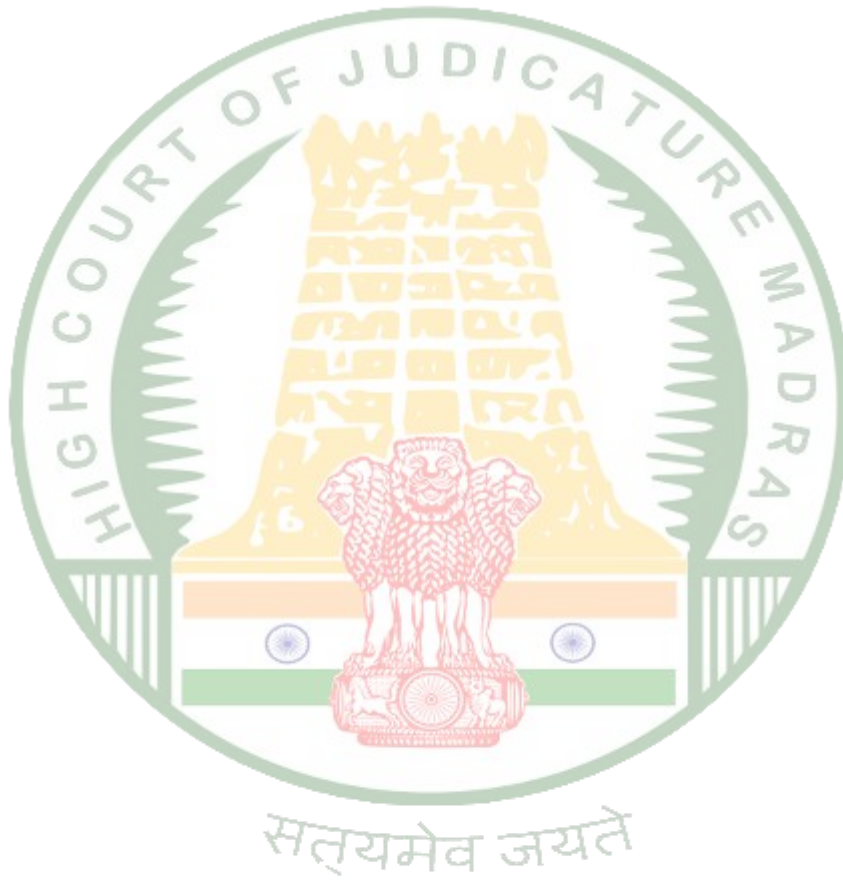
Kv



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