IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2021

CORAM

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

CRP.PD.No.49 of 2018
and CMP.No.187 of 2018

1.S.Vijayakumar
2.Harish ..Petitioners

Vs.

Premkumar ..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decretal order passed in CMA.No.10 of 2015 dated 16.11.2017 on the file of Subordinate Court at Arni in reversing the fair and decretal order in IA.No.633 of 2014 in OS.No.197 of 2014 on the file of the District Munsif Court at Arni.

For Petitioners : M/s.R.Sripriya
for Mr.V.Raghavachari

For Respondent : Mr.P.Seshadri

ORDER

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This civil revision petition is filed against the order and decretal order passed in CMA.No.10 of 2015 dated 16.11.2017 on the file of Subordinate Court at Arni, thereby reversing the fair and decretal order passed in IA.No.633 of 2014 in OS.No.197 of 2014 on

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the file of the District Munsif Court at Arni, thereby dismissing the petition for interim injunction.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent filed suit for permanent injunction and also mandatory injunction directing the petitioners to remove all the construction raised by them within the suit property. The contention of the respondent is that in the deed of partition dated 10.02.2005, by oversight, the Town Survey number was wrongly typed as T.S.No.32/2C, instead of T.S.No.32/3C. Further, the measurements of each of the sites on all the sides were not furnished in that partition deed and only the extents of areas in approximate sq.ft. were mentioned. Hence, a deed of rectification, to rectify the errors, was executed by all the three brothers on 31.08.2007. In the rectification deed also a sketch is appended wherein the sites allotted to the eldest brother S.Rajasekar are denoted as 'A3' and 'A6'; the sites allotted to the plaintiff are denoted as 'A2' and 'A5'; and the sites allotted to the first defendant are denoted as 'A1' and 'A4'. All the three brothers are in exclusive possession and enjoyment of the extents allotted to each of them in TS.No.32/3C. While being so, according to the respondent, the petitioners put up construction in the portion allotted to the respondent. Though the trial court dismissed the

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petition for temporary injunction, the first appellate court reversed the same and granted interim injunction and also directed to complete the trial within a period of six months.

3. Further, the learned counsel for the respondent would submit that the petitioners and the respondent are brothers and they have settled the matter themselves amicably. Considering the above facts and circumstances of the case, both the parties are directed to maintain '*status quo*' in respect of the suit property as on today, if the matter is not yet settled between them.

4. With the above direction, this civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. No order as to costs.

16.04.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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G.K.ILANTHIRAIYAN,J.

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To

1.The Subordinate Judge,
Arni
2.The District Munsif Court,
Arni.

HIGH COURT OF JUDICATURE MADRAS
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CRP.PD.No.49 of 2018

16.04.2021

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