

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**C.R.P(PD).No.2068 of 2020
and
C.M.P.No.13008 of 2020**

1.G.Balaji
2.G.Srinivasan

...Petitioners

Vs

1.Govindammal
2.The Tamil Nadu Slum Clearance Board,
Rep. By Chairman,
Kamaraj Salai, Chennai – 5.

...Respondents

Revision Petition filed under Article 227 of the Constitution of India to set aside the docket order dated 03.08.2020 made in O.S.No.1726 of 2016 passed by the learned II Assistant Judge, City Civil Court, Madras.

For Petitioners : Mr.V.Balasubramanian

For Respondents : Mr.M.Rajasekaran (For R2)

No appearance (For R1)

ORDER

The two plaintiffs, G.Balaji and G.Srinivasan, both sons of S.Gandhi, the original allottee of Plot No.114 in Nehru Nagar, Villivakkam of the Tamil Nadu Slum Clearance Board, had instituted a suit in O.S.No.1726 of 2016 against their aunt, namely, sister of S.Gandhi, by name, Govindammal and against THE Tamil Nadu Slum Clearance Board seeking a judgment and decree for mandatory injunction directing the second defendant/Tamil Nadu Slum Clearance Board to change the allotment in favour of the plaintiffs and for a further direction against the first defendant/Govindammal/aunt to vacate and hand over possession to the plaintiffs and for permanent injunction against the first defendant from putting up any construction and for cost of the suit.

2.In that particular suit, the two plaintiffs and the first defendant had entered into a compromise by dividing the property into two shares and also allotting a particular share to the said Govindammal. They presented the

said compromise memo before the learned II Assistant Judge, City Civil Court, Chennai where the suit was pending. By an order dated 03.08.2020, the learned Judge refused to recognize such a compromise.

3.The learned Judge had further observed that under Section 65 of the Tamil Nadu Slum Areas Improvement and Clearance Act, 1971, the jurisdiction of the Civil Court is barred. For this aspect, the learned Judge had placed reliance of the judgment reported in **CDJ 2018 MHC 1756 [Samundeeswari vs. S.M.Kaleeswaran and others]**. The learned Judge therefore stated that transfer of allotment cannot be recognized by the Court.

4.Aggrieved by such observation, the present revision petition has been filed.

5.Heard Mr.V.Balasubramanian, learned counsel for the petitioners/plaintiffs and Mr.M.Rajasekaran, learned counsel for the second respondent/second defendant/Tamil Nadu Slum Clearance Board.

6.Mr.M.Rajasekaran, learned counsel for the second respondent pointed out the relief sought for in the suit, particularly, the first relief with respect to mandatory injunction against the Tamil Nadu Slum Clearance Board with respect to change of allotment order in favour of the plaintiffs and claimed that the Civil Court is barred from granting any such relief under Section 65 of the Tamil Nadu Slum Areas Improvement and Clearance Act, 1971.

7.In view of the said bar, I am in agreement with the observation of the learned Judge that there is a bar to the Civil Court from recognizing any change in allotment. The suit with respect to the first relief is certainly barred. Therefore, the order under revision will necessarily have to be upheld.

8.It is to be noted that the Tamil Nadu Slum Clearance Board can only recognize the direct legal heirs of an allottee who unfortunately expires during the course of allotment.

9.However, liberty is given to the plaintiffs, if so advised, to drop relief No.1 in the plaint and thereafter, present a compromise before the Tamil Nadu Slum Clearance Board.

10.With the said observations, the revision petition is disposed of. No order as to costs. Consequently, connected miscellaneous petition is closed.

19.04.2021

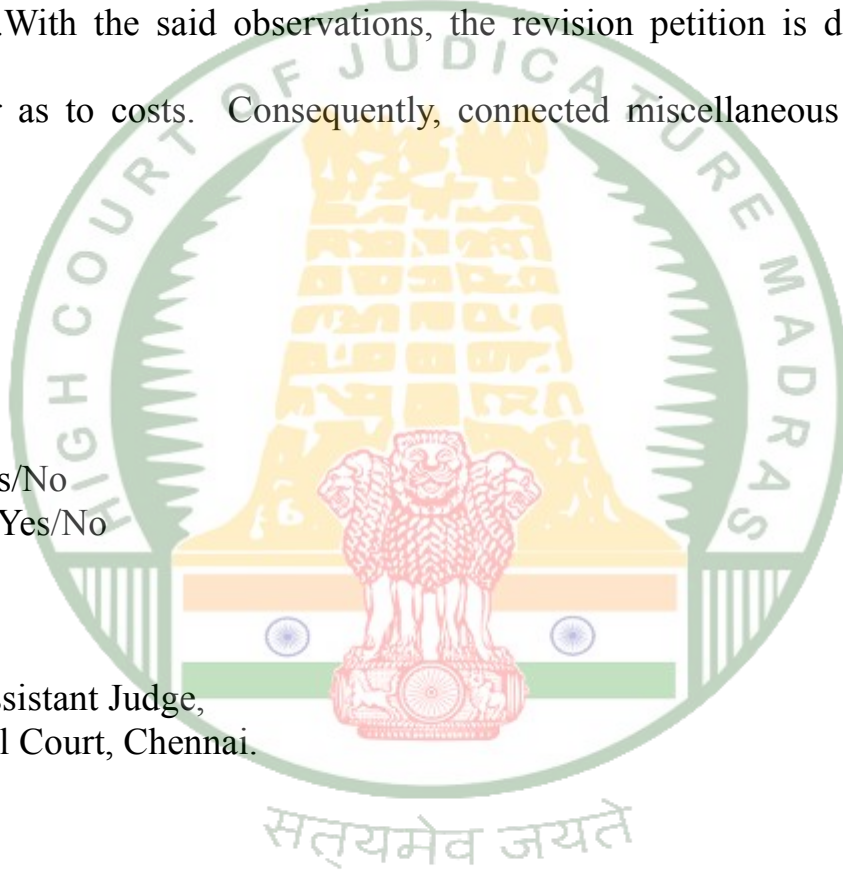
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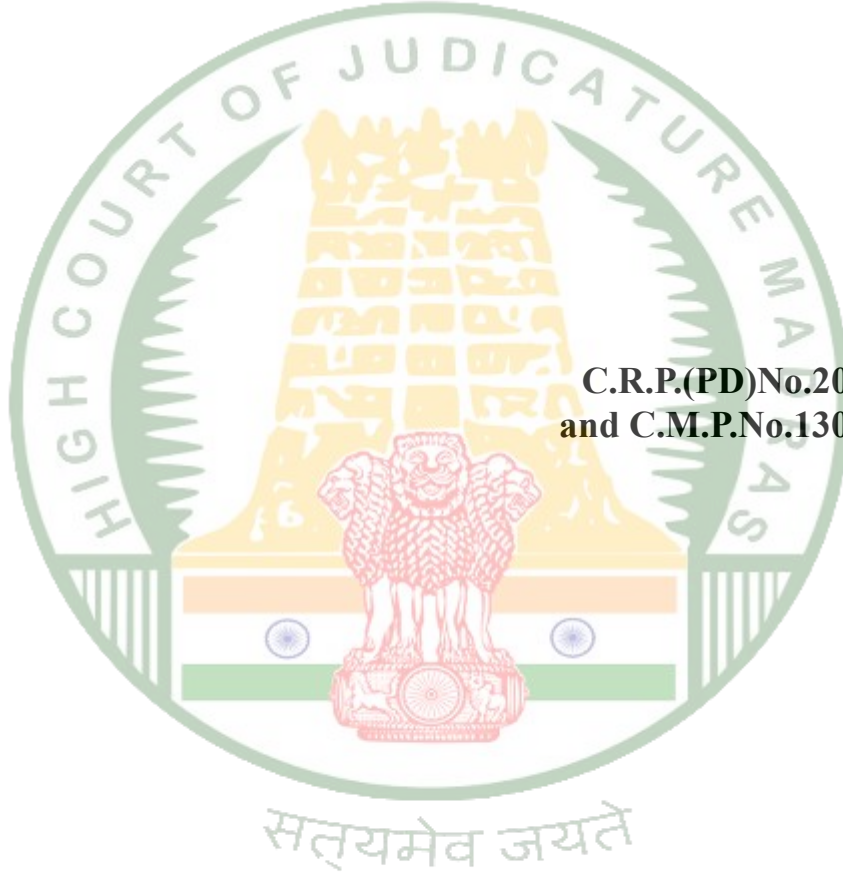
The II Assistant Judge,
City Civil Court, Chennai.



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C.V.KARTHIKEYAN, J,

cse



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