

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM

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

C.R.P.(PD) Nos.743 & 744 of 2017

and

CMP.No.3684 of 2017

B.Munusamy Chowdry

... Petitioner in both CRPs

Vs.

1. M/s.Pace Builders (Madras) Private Ltd.,
Rep. by its Director,
N.Rajasekar,
S/o.Nagamuthu
B-58 Anna Nagar East,
Chennai-101.

2. The Commissioner,
Tambaram Municipality,
Tambaram.

3. The Member Secretary,
C.M.D.A, Egmore,
Chennai-8.

... Respondents in both CRPs.

Prayer:-

Civil Revision Petitions filed under Section 227 of The Constitution of India, praying to set aside the the order and decretal order dated 18.10.2016 in I.A.Nos.409 & 410 of 2016 in I.A.No.470 of 2014 in O.S.No.122 of 2013 on the file of the Subordinate Judge at Tambaram.

For Petitioner : Ms.K.Ramya
For M/s.R.T.Shyamal

For Respondents : Mr.B.Rajkumar Ashok Singh for R1
Mr.P.Srinivas for R2
R3-Notice served

COMMON ORDER

The CRP.No.743 of 2017 has been filed seeking to dismiss the order of reopening the petitioner side evidence in I.A.No.470 of 2014 in O.S.No.122 of 2013 dated 18.10.2016 passed in I.A.No.409 of 2016 in I.A.No.470 of 2014 in O.S.No.122 of 2013 by the learned Subordinate Judge, Tambaram and CRP.No.744 of 2017 has been filed seeking to dismiss the order of recalling PW-1 for further cross examination in I.A.No.470 of 2014 in O.S.No.122 of 2013 dated 18.10.2016 passed in I.A.No.410 of 2016 in I.A.No.470 of 2014 in O.S.No.122 of 2013 by the learned Subordinate Judge, Tambaram.

2. The petitioner is the Plaintiff and the respondents are the defendants. The petitioner filed a suit for recovery of possession and mandatory injunction. The Trial Court ordered status quo in I.A.No.470 of 2013. While pending the order of status quo, the respondents

proceeded with the construction in the suit schedule property. Therefore, the petitioner filed a petition to punish the respondents in I.A.No.470 of 2014. In the said petition, the petitioner side evidence closed and the respondents side witness also closed. When the matter was posted for arguments, the first respondent filed the petitions to reopen and recall of PW-1 for further cross examination.

3. The learned counsel for the petitioner would submit that these petitions filed by the first respondent is only to drag on the proceedings. Even while pending the petition to punish the respondents, he proceeded with the construction in the suit schedule property.

4. On perusal of the orders passed by the Court below revealed that the petitions were allowed only to avoid multiplicity of the proceedings between the parties on payment of cost of Rs.10,000/- payable by the first respondent to the petitioner on or before 21.10.2016. The learned counsel for the respondents submitted that the said condition was duly complied with.

5. Considering the above facts and circumstances, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, these Civil Revision Petitions are dismissed. However, considering the fact that the suit is posted on 29.03.2021, the first respondent is directed to cross examine the petitioner on 29.03.2021. If the first respondent failed to cross examine the petitioner on that day, the trial court is directed to proceed with the case and pass orders on merits and in accordance with law, within a period of four (4) weeks thereafter. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

17.03.2021

Index : Yes/No

Speaking order/Non-speaking order

kmi

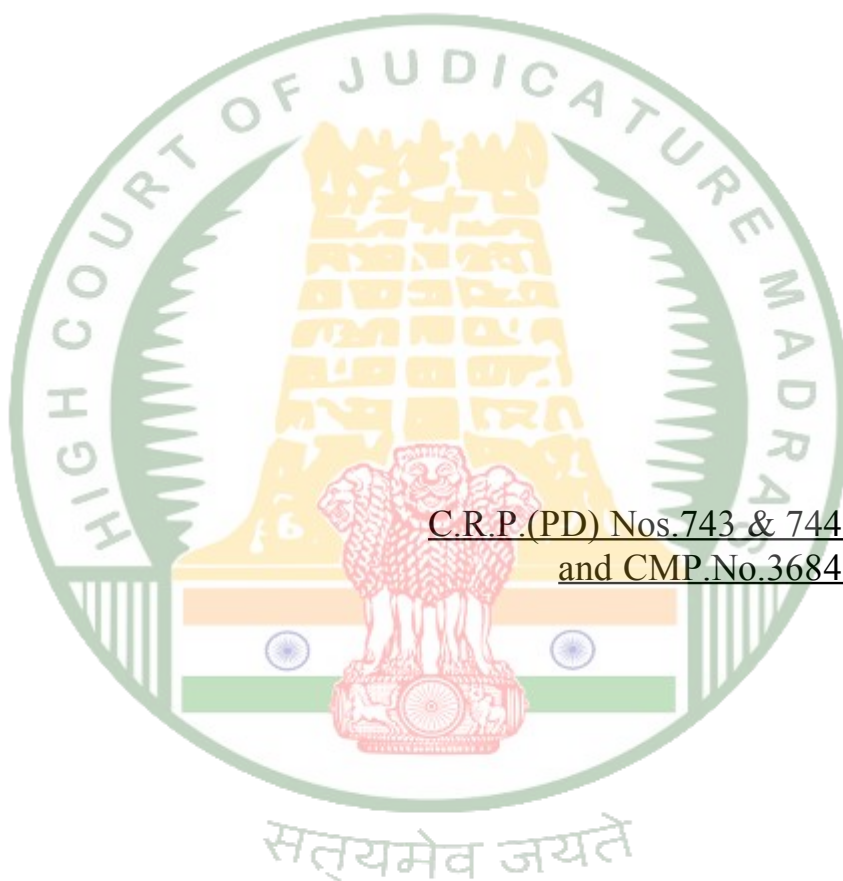
To

1. The Subordinate Judge,
Tambaram.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

C.R.P.(PD) Nos.743 & 744 of 2017

G.K.ILANTHIRAIYAN, J.

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