

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.R.P.(PD).Nos.3806 and 3809 of 2018 and
C.M.P.No.2177 of 2018

R.Murali

..

Petitioner in both C.R.P.'s

..Vs..

1. K.Selvam

Sub Inspector of Police,
S.I. Sembium, Police Station,
Sembium, Chennai.

..

Respondent in C.R.P.(PD)
No.3809 of 2018

2.S.Kalidoss

3.Tmt.R.Krishnaveni

4.Tmt.Vasanth Murugan

5.Tmt.Shanthi Loganathan

6.Tmt. Saraswathi Moorthy

7.Tmt.Dhanalakshmi Parthasarathi

8.Muruganandam

9.Tmt.Devi Jayaraman

10.Kumar

11.Tmt. Gowri Selvaraj

..

Respondents in
CRP(PD)No.3806 of 2018

(In the main Appeal Respondents

3,6,7,9 have been dismissed, they were

2,5,6,8 in the C.M.P.

In CMP appellant not pressed Respondents

4,5,8 and 11. They are in the CMP.3,4,7 and 10.

Therefore 3,4,5,6,7,8,9 and 11 given up)

Prayer in CRP (PD) No.3806 of 2018: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 6th September 2018 passed in C.M.P.No.473 of 2017 in A.S.No.69 of 2017 on the file of 3rd Additional City Civil Court, Chennai.

Prayer in CRP (PD) No.3809 of 2018: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 6th September 2018 passed in C.M.P.No.621 of 2018 in A.S.No.69 of 2017 on the file of 3rd Additional City Civil Court, Chennai.

For Petitioner : Mr.R.Subramanian
(in both C.R.P.'s)
For Respondents : Ms.Vasudha Thiagarajan
(in both C.R.P.'s)

COMMON ORDER

These Civil Revision Petitions have been filed challenging the order dated 06.09.2018 passed in C.M.P.Nos.473 of 2017 and C.M.P.No.621 of 2018 in A.S.No.69 of 2017 on the file of III Additional City Civil Court, Chennai.

2. Originally, the suit was filed by the revision petitioner to declare the Deed dated 24.07.2010 executed by the defendants 1 to 9, in favour of the 11th defendant is null and void, for permanent injunction restraining the

defendants 10 and 11 from interfering with the plaintiff's peaceful possession and occupation of the suit schedule property and for recovery of damages sustained by him, on account of illegal demolition of the suit property. The suit came to be allowed by the Court below, as against which, the respondents 1 and 2 in C.R.P.No. 3806 of 2018 (the first respondent is the sole respondent in C.R.P.No.3809 of 2019) filed Appeal in A.S.No.69 of 2017, on the file of III Additional City Civil Court, Chennai and pending disposal of the same, the petitioner filed C.M.P.No.621 of 2018, seeking for a direction to the appellants to pay a sum of Rs.78,450/- to the petitioner and the respondents 1 and 2 in C.R.P.No. 3806 of 2018 (the first respondent is the sole respondent in C.R.P.No.3809 of 2019) filed C.M.P.No.473 of 2017, to stay operation of the Judgment and decree dated 31.10.2014 made in O.S.No.7700 of 2010, The application filed by the revision petitioner was dismissed and the application filed by the respondents 1 and 2 in C.R.P.No.3806 of 2018 was allowed. Aggrieved by the said orders, the present Civil Revisions have been filed by the revision petitioner.

3. The main contention of the learned counsel for the revision petitioner is that the trial Court has rightly come to the conclusion that the

demolition was illegal and there was a forceful demolition by the defendants and thereby decreed the suit as prayed for. Therefore, he contended that the Judgment and decree passed by the trial Court was a well reasoned Judgment and the said Judgment has been challenged in A.S.No.69 of 2017. He would further submit that though the person aggrieved is entitled to file an appeal in law, still they have to be directed to deposit the compensation amount ordered by the Court below and there is no need to stay of the Judgment passed by the trial Court, which aspect was not considered by the Court below in a proper perspective and hence the petitioner filed the present Civil Revision Petitions to set aside the orders dated 06.09.2018 passed in C.M.P.Nos.473 of 2017 and C.M.P.No.621 of 2018 in A.S.No.69 of 2017 on the file of III Additional City Civil Court, Chennai.

4. On the other hand, Ms.Vasudha Thiagarajan, the learned counsel for the respondents strongly opposed for the submission made by the learned counsel for the petitioner, by stating that the person who was aggrieved by the Judgment and decree passed by the trial Court is entitled to file an Appeal in law as the appeal is the continuation of the suit. She further submitted that the defendants 1 to 4, 6, 7 and 9 filed written statement, wherein, it is

categorically stated that the sale deed was registered on 24.07.2010 and before that with the consent and knowledge of the plaintiff, the old building was demolished and the said issue was not properly adjudicated, by the court below and when such being a case directing the respondents to deposit a sum of Rs.78,450/ is not proper. She further submitted that the Appeal needs to be adjudicated, if the issues are not properly considered by the trial Court. She further submitted that there is no merit in the Revisions and the same is liable to be dismissed.

5. Heard both sides. Perused the records.

6. Upon perusal of the records, it appears that the defendants 1 to 9 executed the sale deed in favour of the tenth defendant and both the parties admitted that the plaintiff is entitled to 1/10th share in the property and the Court below has taken note of that, but inspite of that set aside the sale deed executed by the defendants 1 to 9. Upon perusal of the written statement, it appears that the sale deed was registered on 24.07.2010 before that with the consent and knowledge of the plaintiff, the old building was demolished.

7. Further, the respondent counsel submitted that the tenth defendant is no way responsible and directing him to deposit the amount, without adjudication is not proper and these aspects can be adjudicated only in the Appeal, the same was properly considered by the trial Court and at this juncture there is no need for this Court to interfere with the order of the Court below.

8. The Court below by rightly observing that the Appeal is the continuation of the suit and in the interest of the justice, appellants should be given opportunity to question the correctness of the decree and judgment passed by the trial court in appeal and has rightly granted stay of the Judgment and decree, since the judgment was stayed by the court below, it has rightly rejected the prayer made by the petitioner seeking deposit of the sum of Rs.78,450/-.

9. In such view of the matter, this Court does not find any merit and substance in the submission made by the learned counsel for the petitioner. I do not find any infirmity in the orders passed by the Court below and the same deserves dismissal.

10. Accordingly, these Civil Revision Petitions are dismissed.

However, in view of the fact that the Appeal is pending for the past four years, this court directs the III Additional Judge, City Civil Court, to dispose of the appeal in A.S.No.69 of 2017, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

24.03.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

To

1. The VI Assistant Judge,

City Civil Court, Chennai.

2. III Additional City Civil Court,

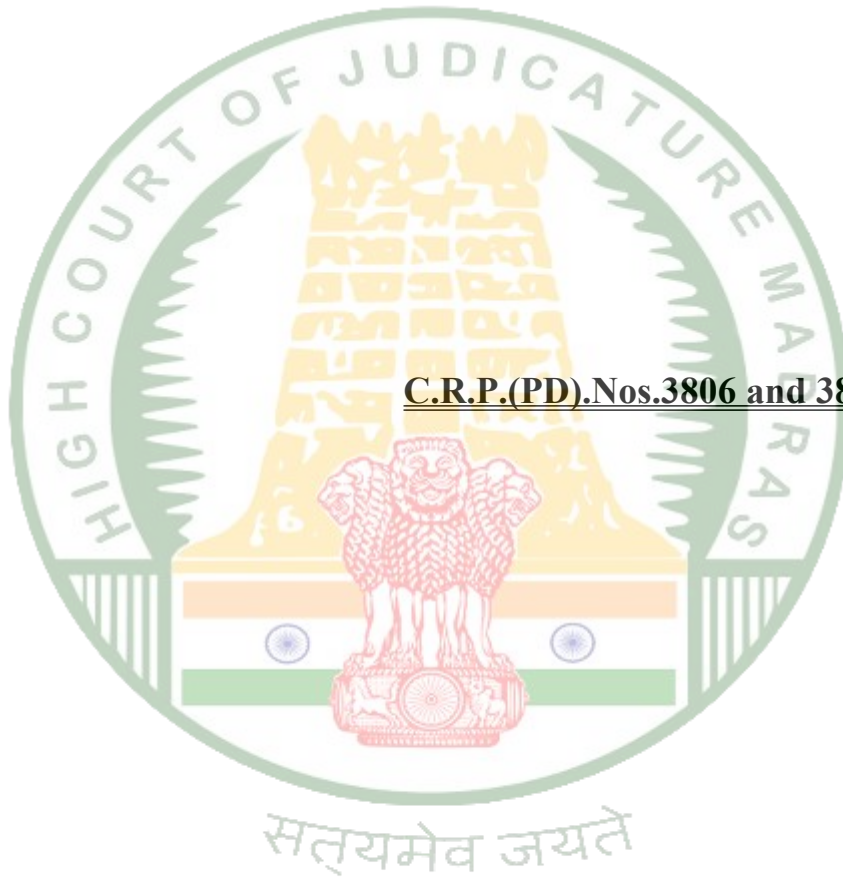
Chennai.

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CRP.(PD)Nos.3806 & 3809 of 2018

KRISHNAN RAMASAMY,J.

arr



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