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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

O.S.A.Nos.80 & 82 of 2022
and C.M.P.Nos.5846 & 5851 of 2022

Guru Dhananjay .. Appellant in both OSAs

Vs.

1.Swarna Krishnaswamy
2.K.Subramanian
rep by his Power Agent
Indira Ramakrishnan
3.Lakshmi Natarajan
4.Indira Ramakrishnan
5.Hemamalini
6.A.Kousalya Merchant
7.Canara Bank
rep by its Manager,
Mandaveli Branch,
R.K.Mut Road,
Chennai - 600 028.
(R6 & R7 - given up)

.. Respondents in both OSAs

Appeals filed under Clause 15 of the Letters Patent read with Order XXXVI Rule 9 of the Original Side Rules read with Section 104(ff) of the Code of Civil Procedure against the judgment and decree dated 15.03.2022 made in A.Nos.1039 & 1040 of 2022 in C.S.No.435 of 2018.

Prayer in S.No.1039 of 2022 : Application praying that this Hon'ble Court to pleased to summon the production of all records and documents relating to issue fo Patta/Town Survey Land Register Extract Pertaining to the suit schedule 'A' property from the office of the Tahsildar, Mylapore, Chennai in C.S.No.435 of 2018.

Prayer in A.No.1040 of 2022 : Application praying that this Hon'ble Court be pleased to summon the production of all records and documents relating to Plan Permission Number PPA/WDC10/13320/2008 and Plan Permission Number PPA/WDC10/02875/2016 pertaining to the suit schedule 'A' property from the Corporation of Chennai in C.S.No.435 of 2018.



For Appellant (in both OSAs) : Mr.H.Karthik Seshadri

For Respondents (in both OSAs): Mr.R.Thiagarajan (R1 to R5)

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C O M M O N J U D G M E N T
(JUDGMENT WAS MADE BY M.DURAISWAMY, J.)

Challenging the order passed in the applications in A.Nos.1039 & 1040 of 2022 in C.S.No.435 of 2018, the 2nd defendant has filed the above appeals.

2.The learned counsel for the appellant submitted the respondents 6 & 7 are given up in the above appeals.

3.The plaintiffs filed the suit in C.S.No.435 of 2018 for declaration and for other reliefs. The defendants filed their written statement and are contesting the suit. After the completion of the evidence on the side of the plaintiffs, the 2nd defendant took out an application in A.No.1039 of 2022 to summon the production of all records and documents relating to the issuance of patta/town survey land register extract pertaining to the suit "A" schedule property from the office of the Tahsildar, Mylapore, Chennai and also filed another application in A.No.1040 of 2022 seeking to summon production of all records and documents relating to the planning permission pertaining to the suit "A" schedule property from the Corporation of Chennai. The learned Single Judge, after taking into consideration the case of both sides, allowed the applications, subject to payment of costs of Rs.2,50,000/-. Aggrieved over the imposition of costs of Rs.2,50,000/-, the 2nd defendant has filed the above appeals. The learned Single Judge imposed costs of Rs.2,50,000/- for the reason that the 2nd defendant has filed the applications belatedly.

4.It is pertinent to note that the 2nd defendant has filed the applications after the completion of the plaintiffs' side evidence and when the suit was posted for the evidence on the side of the defendants.

5.Mr.H.Karthik Seshadri, learned counsel appearing for the appellant submitted that imposing costs of Rs.2,50,000/- for allowing the applications is onerous, hence, the same has to be set aside.

6.Mr.R.Thiagarajan, learned counsel appearing for the respondents 1 to 5 fairly submitted that he is not making any submissions with regard to the imposition of costs of Rs.2,50,000/- on the appellant. However, his only prayer is to



request the learned Single Judge to complete the trial and dispose of the suit within a time frame for the reason that the 1st respondent is aged 87 years.

7. In view of the submissions made by the learned counsel on either side, we are of the considered view that the imposing a costs of Rs.2,50,000/- for allowing the applications is on the higher side, hence, the same is liable to be modified. Accordingly, we modify the order dated 15.03.2022 passed by the learned Single Judge, by imposing a costs of Rs.10,000/- (Rupees Ten Thousand only) payable by the 2nd defendant to the respondents within a period of one week from the date of receipt of a copy of this order. In other aspects, the order dated 15.03.2022 passed by the learned Single Judge shall remain unaltered. In view of the submission made by Mr.R.Thiagarajan, learned counsel for the respondents 1 to 5, we request the learned Single Judge to dispose of the suit as expeditiously as possible, preferably within a period of four months.

8. With the above modification, the Original Side Appeals are partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.R.Thiagarajan, Advocate SR.No.22927

O.S.A.Nos.80 & 82 of 2022
and C.M.P.Nos.5846 & 5851 of 2022

AJS (CO)
GMY (02/05/2022)