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C.M.A.No.2460 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 14.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2460 of 2022

and

C.M.P.Nos.19189 and 19190 of 2022

1.Indira

2.Anitha

3.K.Anandhi

... Appellants/Respondents 1 to 3/
Defendants 1 to 3

Vs.

1.M.Arun

2.T.K.Kumar

3.M.Hemamalini

4.M.Usha

... Respondents/Petitioners/Plaintiffs

Prayer: Civil Miscellaneous Appeal is filed under Order 43 Rule 1(r) of the Code of Civil Procedure against the Fair and Decreetal dated 19.10.2022 in I.A.No.5 of 2022 in O.S.No.5913 of 2019 on the file of the learned II Additional Judge, City Civil Court, Chennai.

For Appellants : Mr.M.Kumar



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JUDGMENT

The Civil Miscellaneous Appeal has been filed challenging the Fair and Decreetal order passed in I.A.No.5 of 2022 in O.S.No.5913 of 2019 on the file of the learned II Additional Judge, City Civil Court, Chennai, in and by which the learned Judge has allowed the petition and directed respondents 1 and 3 be detained in a Civil prison for a month for committing contempt of the orders of injunction dated 29.11.2019 granted in I.A.Nos.2 and 3 of 2019 in O.S.No.5193 of 2019 by the learned II Additional Judge, City Civil Court, Chennai.

2.The respondents herein had filed the suit O.S.No.5913 of 2019 for the following reliefs:

*“(a)declaring the plaintiffs are the absolute owners
of the suit schedule property and consequentially*



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directing the defendants to quit and deliver vacant possession of the suit schedule property to the plaintiffs,

(b)mandatory injunction directing the defendants to restore the suit premises by removing the illegal constructions,

(c)directing the defendants to pay damages for use and occupation of the suit schedule property at the rate of Rs.15,000/- per month from 03.07.2018 till date accumulating to Rs.1,95,000/-,

(d)directing the defendants to pay future damages at Rs.15,000/- per month from the date of Plaint till the date of surrendering vacant possession of the property.”

3. Along with the said petition, the respondents had also filed I.A.No.3 of 2019 seeking an *ad interim* injunction restraining the respondents, their men, agents or anybody on their behalf from



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anyway making illegal constructions or temporary structures over the suit property.

4.In the affidavit filed in support of the above petition, the respondents had contended that the appellants 1 and 2 were residing in the suit property measuring 250 sq.ft. of land and building which was in a dilapidated condition and the remaining land was vacant. The right of the respondents to the suit property was confirmed in an earlier suit for partition filed by appellants 1 to 3 in O.S.No.6454 of 2013 against the vendor of the respondents, Kamalammal. In May 2019, when the respondents had visited the property they found that the appellants 1 to 3 herein had trespassed into the vacant land in the suit property by making illegal constructions and putting up a shed with roofing sheets. The respondents 1 to 3 had put up a new construction extending the same by an additional floor. Therefore, the plaintiffs had come forward with the Interlocutory Application.



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5.The learned II additional Judge, City Civil Court, Chennai, had passed an order dated 29.11.2019 in the above Interlocutory Application granting an interim injunction as prayed for. The said order was passed after contest. Thereafter, the respondents have come forward with the Interlocutory Application which is the subject matter of the appeal stating that the order of injunction passed by the Court has been violated.

6.The respondents had made the following statements in their evidence filed in support of the Contempt Petition:

“6...In the situation were recently got information from the neighbours in the suit property that the respondents altogether are making illegal pucca constructions in the suit property and we petitioners immediately went to visit the suit property and were



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shocked to notice that the respondents had made new constructions illegally in the suit property measuring about 300 sq.ft with ground floor and roof violating the orders of this Hon'ble Court. The present construction is adjoining to earlier existing old dilapidated building measuring about 250 sq.ft. It is admitted in the dW1 evidence itself that only 250 sq.ft and dilapidated building is present in the suit property other than the roofing sheets covered portion.”

7.This act was a clear violation of the orders of this Court. A counter affidavit has been filed by the appellants herein in which they have not categorically denied the statement made by the respondents but would make the following statements:

“(4)I state that the contentions made in the petition are not factually correct. I state that the alleged



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complaint given by the petitioners against us before the Inspector of Police for which we have given detailed explanation. Further to that we have appeared before the Corporation officials and gave out reply. We have not committed any wilful disobedience of the order of the Hon'ble Court and there was no materials to substantiate the same and the Contempt Petition filed by the petitioners have to be rejected and there are no materials to prove that we have committed any wilful disobedience of the order of the Hon'ble Court.”

8.A perusal of the above statement clearly shows that the appellants have not denied the act of contempt nor has there been any remorse expressed by them. The learned II Additional Judge, City Civil Court, Chennai, after hearing the parties and perusing the documents submitted held the appellant to be in contempt of this order



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and passed the impugned order. Challenging the same, the appellants are before this Court.

9. Heard the learned counsel appearing for the appellants and perused the papers.

10. The narration in the foregoing paras would clearly show that the appellants had been enjoined from putting up any further construction to the suit property, however, in total disobedience of the said order they had proceeded to put up additional construction which has been proved by filing necessary documents. The appellants have not even expressed remorse in the counter affidavit filed by them and on the contrary has taken a very defiant stand. The order of the Courts have to be obeyed in its letter and spirit and if there is any aberration to the same it has to be dealt with very strictly in order to maintain the dignity and the decorum of the orders of this Court. I see



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no reason for interfering with the orders passed by the learned II Additional Judge, City Civil Court, Chennai, in I.A.No.5 of 2022 in O.S.No.5913 of 2019.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The II Additional Judge,
City Civil Court,
Chennai.



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P.T. ASHA, J,

mps

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