



CRP No.4134 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 09.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.No.4134 of 2023

and

C.M.P.No.25251 of 2023

1.J.Zakir Hussain

2.Z.Abidhal Begum

...

Petitioners

/vs/

Saira Banu

...

Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the docket order dated 06.10.2023 passed in I.A.No.3 of 2023 in O.S.No.5968 of 2023 on the file of the learned XV Assistant City Civil Court at Chennai thereby direct the learned XV Assistant City Civil Court, at Chennai to dispose the I.A.No.3 of 2023 in O.S.No.5968 of 2023 within the time stipulated as fixed by this Hon'ble Court.

For Petitioners : Mr.A.Sajidha Meera Rumana

ORDER

Challenging the docket order dated 06.10.2023 passed in I.A.No.3 of 2023 in O.S.No.5968 of 2023 on the file of the learned XV Assistant City Civil Court at Chennai, the present civil revision petition has been filed.

2.Heard the learned counsel appearing for the petitioners and perused the materials available on record.



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3. Before the trial Court, the revision petitioners/plaintiffs filed a suit in O.S.No.5986 of 2023 praying for Mandatory Injunction and other reliefs along with I.A.No.3 of 2023 praying for interim injunction to restrain the respondent, his men, agents, servants, heirs and any one acting under him through directly or indirectly on their behalf from in any way or in any manner from making any further construction upon the petitioners' "A" suit schedule property till the disposal of the suit.

4. According to the revision petitioners/plaintiffs, the respondent is an adjacent owner of the property belongs to them, which was purchased by them through the sale deed dated 30.07.2009 and they got rights over the eastern portion of all ways of the property together with rights over drains water and water courses and easements and appurtenances thereby they claim eastern portion of the land, building and premises in old Door No.47 comprised in survey No.157/15 measuring an extent of 1202 sq.ft., marked as "A" in the plaint plan belongs to them but the respondent/defendant encroached four feet and put up a construction in the Wall belongs to the revision petitioners/plaintiffs without leaving space, hence, they approached the trial Court for the abovesaid reliefs. The trial Judge posted the interim application in I.A.No.3 of 2023 along with original suit on 24.11.2023



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ignoring the document photographs laid by the plaintiffs in order to show that the construction is put up by the respondent/defendant in the disputed premises. Challenging the said docket order, now the plaintiffs preferred the civil revision petition. As per the document photographs annexed with the plaint prima facie shows that the respondent/defendant, who is an adjacent owner of the plaintiffs' property, is putting up construction and shows that keeping materials adjacent to the plaintiffs' property and according to the plaintiffs, it belongs to them and the space was left by them, if at all any further construction put up by them, he would suffer with irreparable laws, however, the trial judge ought to have taken interim application instead of that adjourned the same along with the suit as such is not acceptable one. Therefore, the trial Judge is directed to dispose of the Interim application within a period of two weeks from the date of receipt of a copy of this order by giving notice to the other side on merits. Till then the status quo was ordered to be maintained.

With the above direction, the civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No
Internet: Yes/No

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T.V.THAMILSELVI, J.

sms

To

The XV Assistant City Civil Court,
Chennai.

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