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C.R.P.Nos.4641 & 4668 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.Nos.4641 & 4668 of 2023

and

C.M.P.Nos.27656 & 27751 of 2023

1. Satyakala
2. M.Kuppammal

... Petitioners in
both C.R.P.s

-Vs-

- 1.Arulmighu Angalaparameswari Amman
Kasiviswanathaswamy Thirukkoil,
rep.by its Executive Officer,
Having Office at the Temple Premises,
Choolai, Chennai 600 112.

- 2.The Commissioner
Corporation of Chennai,
Rippon Building,
Chennai-600 003

... Respondents in
both C.R.P.s

Prayer in CRP 4641 of 2023 : Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the common order dated 13.10.2023 passed in I.A.No.4 of 2023 in O.S.No.2633 of 2020 on the file of VIII Assistant Judge, City Civil Court at Chennai.



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Prayer in CRP 4651 of 2023 : Civil Revision Petitions filed under Article 227 of the Constitution of India, praying to set aside the common order dated 13.10.2023 passed in I.A.No,5 of 2023 in O.S.No.2633 of 2020 on the file of VIII Assistant Judge, City Civil Court at Chennai.

For Petitioners in

both C.R.P.s : Mr.B.Ullasavelan

ORDER

Challenging the impugned common order passed in I.A.Nos.4 and 5 of 2023 in O.S.No.2633 of 2020 passed by the learned VIII Asst. Judge, City Civil Court, Chennai respectively, the Revision Petitioners/defendants preferred these Civil Revision Petitions.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the Revision Petitioners filed an application to reopen and recall P.W.1 and both applications were allowed with a condition to pay a sum of Rs.10,000/- as cost. Challenging the said findings, the Revision Petitioners/defendants preferred this Civil Revision Petition.



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4. The learned counsel for Revision Petitioners would submit that they are poor illiterate persons and wanted to contest the case. However, during the trial proceedings, when the case is posted for cross-examination, as their counsel appearing for them was engaged with another matter, at his request, the case was adjourned and the junior counsel for revision petitioner was also present. But, the trial judge not accepting his request, holding that in order to drag on the proceedings, that application was filed and accordingly, allowed the application with a condition to pay a sum of Rs.10,000/- as cost. Hence, they prayed to set aside the findings of trial judge imposing cost on the revision petitioners.

5. Records perused. On seeing entire facts, it would reveals that both the Revision Petitioners are illiterate persons. The 1st respondent/plaintiff filed a suit for permanent injunction and mandatory injunction stating that the Revision Petitioners/defendants have put up illegal construction in the property belongs to the 1st respondent/plaintiff. So, if opportunity is not given to them, their valuable right to defend the case will be defeated. Since the Revision Petitioners are living in a slum



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area, the imposing of cost of Rs.10,000/- is highly exorbitant one, this

Court is inclined to set aside the cost imposed by the trial court in a common order passed in I.A.Nos. 4 and 5 of 2023 in O.S.No.2633 of 2020 and confirmed the remaining order passed by the trial judge. Accordingly, these Civil Revision Petitions are allowed in respect of imposing cost on the Revision Petitioners. They are directed to cooperate with the proceedings to cross-examine P.W.1 and other witnesses. Time for the period of two weeks is granted to cross-examine P.W.1 from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

11.12.2023

Index : Yes/No

Speaking Order : Yes/No

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To

VIII Assistant Judge, City Civil Court at Chennai.



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T.V.THAMILSELVI, J.

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