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C.R.P.No.2320 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2320 of 2024

and

C.M.P.No.12191 of 2024

The Chitra Avenue Flat Owners Welfare Association,
Represented by its Secretary, Chitra Avenue,
No.9, Choolaimedu High Road,
Chennai – 600 094.

... Petitioner

Vs.

V.G.Selvaraja

... Respondent

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the decree and order dated 07.06.2024 passed in I.A.No.5 of 2024 in O.S.No.8590 of 2022, by the VIII Assistant City Civil Court, Chennai.

For Petitioner : Mr.Y.Kaja Navas

For Respondent : Mr.S.Kamadevan



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ORDER

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This Civil Revision Petition has been filed to set aside the decree and order dated 07.06.2024 passed in I.A.No.5 of 2024 in O.S.No.8590 of 2022, by the VIII Assistant City Civil Court, Chennai.

2. The petitioner/ respondent in I.A.No.5 of 2024 and the defendant in O.S.No.8590 of 2022 had filed this petition to set aside the order passed by the trial Court for the reason that in the said application both the petitioner and the respondent earlier advanced their arguments during April 2024 and the case was posted for orders on 07.06.2024. In the interregnum the Presiding Officer transferred and the present Presiding Officer took charge on 03.06.2024. Without hearing the petitioner or the respondent, impugned order passed. Further in the impugned order it is recorded, on perusal of the counter this Court noticed that the title of the suit property is in dispute in this suit, which is not proper. The suit filed is with regard to dispute in functioning of the flat Welfare Association.



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3. Both the learned counsel admit that it is not a title suit, the dispute itself is with regard to the payment of maintenance charges and utilization of maintenance charges by the Association for which interlocutory application filed for appointment of an Advocate Commissioner to inspect the accounts of the petitioner herein. But, the trial Court passed a sixteen pages order narrating as though it is a title suit, which is not proper and it is perverse.

4. On the submissions of the learned counsel on either side, it is seen that there is no dispute regarding the fact that the learned counsel for the petitioner and the respondent advanced their arguments on 08.04.2024 and the case was posted “for orders” on 07.06.2024 and the Presiding Officer who heard the arguments got transferred during the month of May and the present Presiding Officer who got transferred from Dindugal to Chennai took charge on 03.06.2024. It is seen that on 07.06.2024, sixteen page order passed, which cause some concern, and this Court is not happy with the



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manner in which the order is passed. Both petitioner and respondent not heard, no opportunity given. Prudency and fair play demands, that once a new Presiding Officer takes charge, case to be listed after giving opportunity of hearing and after hearing the parties orders to be pronounced. It is surprising that the present officer who took charge on 03.06.2024, without hearing the parties, passed an order on 07.06.2024. Both the learned counsel for the petitioner and the respondent agree to argue the interlocutory application once again and make their submissions before the present Presiding Officer afresh.

5. Hence, this Court set aside the Impugned order dated 07.06.2024

The learned counsel for the petitioner and the respondent are to appear before the trial Court and advance their arguments in the interlocutory application afresh and thereafter, the trial Court is required to pass orders on merits without making any reference to the earlier order dated 07.06.2024.



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6. With the above directions, the order and the decreetal order dated 07.06.2024 passed in I.A.No.5 of 2024 in O.S.No.8590 of 2022, by the VIII Assistant Judge, City Civil Court, Chennai is set aside and this Civil Revision Petition is **allowed**. No costs. Consequently, the connected civil miscellaneous petition is closed.

18.06.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order/Non speaking order

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To

The VIII Assistant Judge,
City Civil Court, Chennai.



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M.NIRMAL KUMAR, J.

dsa

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