



CRP No.3819 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.3819 of 2024 &
CMP.No.20953 of 2024

1.Riasuddin Mohamed
2.FazilaShahabudeen : Petitioners

versus

1.The Raintree Place owners Association,
Rep. By its Secretary,
Chetpet,
Chennai – 600 031.

2.Subhash Goel

3.Kalyan Kumar

4.M/s. Chaitanya Builders & Leasing Pvt. Ltd.,
Rep. By its Managing Director,
Having Office at Kakani Towers,
No.15, Khader Nawaz Khan Road,
Chennai – 600 006. : Respondents



CRP No.3819 of 2024

Prayer: Petition filed under Article 227 of the Constitution of India to direct the XVII Assistant, City City Court, Chennai to dispose of I.A.No.2 of 2024 in O.S.No.4787 of 2024 as expeditiously subject to the convenience of the Court.

For Petitioner : Mr.Zaffarullah Khan

For Respondents 1 & 2 : Mr.S.Mahesh Kumar for
Ms.Rohini Ravikumar

ORDER

This civil revision petition seeks direction to dispose of I.A.No.2 of 2024 in O.S.No.4787 of 2018 on the file of the XVII Assistant City Civil Court at Chennai.

2. The case of the plaintiffs is that they had entered into a development agreement with the fourth defendant, builder on 31.08.1994. Subsequently on 24.06.1998, they entered into two construction agreements separately with the fourth defendant and on the request of the plaintiffs, he had allotted 22 car parks shown as items 1 and 2 in the suit schedule mentioned property.



CRP No.3819 of 2024

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3. The plaint concedes that the building has been constructed and the property has been put to use by them. They have let out the properties, which belong to them to ICICI bank and other tenants.

4. The cause of action for the suit is that on 17.02.2024, the defendants 1 to 3 had decided to locate generators in the items 1 and 2 of the suit schedule mentioned property. Since their right to the car parks were denied, after issuance of notice, they came forward with the suit for declaration and for permanent injunction.

5. Pending the suit, they took out an application in I.A.No.2 of 2024 seeking an injunction restraining the defendants 1 to 3 from placing the generators in the car parking slots set forth in the schedule to the suit.

6. The learned XVII Assistant City Civil Judge issued notice in the said application and hence, this revision seeking an expeditious disposal.



CRP No.3819 of 2024

WEB COPY

7. When the matter came up for admission on 24.09.2024, I requested Mr.Jafarullah Khan to serve the notice on the contesting defendants 1 to 3 through their counsel, Ms.Rohini Ravikumar and Mr.S.Maheshkumar. Mr.Jafarullahkhan complied with the request and Mr.S.Mahesh kumar has been served with the entire set of papers.

8. I have heard the both.

9. When the matter was taken up for disposal, Mr.S.Maheshkumar would draw my attention to a letter addressed to the first plaitniff on 30.08.2024. As per the letter, the first defendant has informed the plaintiffs as follows:

“ ... Please be rest assured that there never was any proposal to place generator in any of your car parks. Further the association, if need arises will get the consent of the owners on whose car part the common generator will be placed to facilitate the renewal of fire license.”



CRP No.3819 of 2024

WEB COPY

10. Mr.S.Mahesh Kumar would state that insofar as the relief of declaration with respect to title of the plaintiffs over the car parks is concerned, they would work out the matter at the time of final disposal. For the purpose of disposal of interlocutory application, he would state that he has been instructed by the first defendant that they stand by the letter dated 30.08.2024. In other words, the apprehension of the plaintiffs is that first defendant might place the generator in their car parks is misplaced.

11. In the light of the above, recording the letter dated 30.08.2024, **this civil revision petition is disposed of.** Till the suit is disposed of, the defendants will not place the generator in the suit items 1 and 2 without consent of the plaintiffs. The learned XVII Assistant City Civil Judge shall close I.A.No.2 of 2024 in the light of the order passed in this revision.

26.09.2024

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Index : Yes/No

Speaking Order/Non speaking order

Neutral Citation : Yes/No



CRP No.3819 of 2024

WEB COPY

To

The XVII Assistant, City City Court,
Chennai



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CRP No.3819 of 2024

V.LAKSHMINARAYANAN, J.

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CRP No.3819 of 2024

26.09.2024