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CrI.O.P.No.26349 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.26349 of 2024

R.Kothandaraman

... Petitioner

Vs.

1. Landmark Housing Projects

Represented by its Managing Director T.Udayakumar
Having its Registered Office at No.27, Saravana Street,
T.Nagar, Chennai 600 017.

2. T.Udayakumar (Managing Director),

Landmark Housing Projects Chennai Pvt. Ltd.,
Having its Registered Office at No.27, Saravana Street,
T.Nagar, Chennai 600 017.

..Respondents

Prayer: Criminal Original Petition filed under Section 528 BNSS, to direct the Judicial Magistrate, Fast Track Court – III, Saidapet, to conclude the trial and pronounce judgment in C.C.No.12111 of 2018 expeditiously within a specific time frame as fixed by this Court.

For Petitioner : Mr.Nithyaesh Natraj and
Mr.Vaibhav R Venkatesh for
Mr.Anirudh A Sriram

For Respondents : Mr.S.Ramesh



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ORDER

This petition has been filed seeking direction to the learned Judicial Magistrate, Fast Track Court – III, Saidapet, to conclude the trial and pronounce judgment in C.C.No.12111 of 2018 expeditiously.

2 Learned counsel for the petitioner submitted that the case in C.C.No.12111 of 2018 was filed in the year 2018 and the petitioner was examined in chief as P.W.1 on 18.12.2018. Thereafter since the respondents did not appear before the trial Court for several occasions, the trial Court issued NBW and the same was recalled on surrender of the respondent before the trial Court. The respondent filed petition under Section 311 Cr.P.C. to recall P.W.1 for cross examination, but the respondent has not cross examined P.W.1 even after giving several opportunities and hence evidence of P.W.1 was closed. The respondent took several adjournments, after which the matter was listed on 29.01.2021, but the respondent did not appear and hence again NBW was issued, which was again recalled on surrender of the respondent. Like wise on several occasions the matter was adjourned and repeatedly NBW was issued and recalled. Now after six years, still the matter is pending for cross examination of P.W.1. Therefore the petitioner sought for directions of this Court to the learned Magistrate to complete trial and pronounce orders in



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C.C.No.12111 of 2018.

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3 Learned counsel for the respondents would submit that he would advise the second respondent to co-operate for early disposal of the case.

2 Heard the learned counsel on either side and perused the materials available on record.

4 It is the grievance of the petitioner that the case was pending from the year 2018 at the stage of cross examination of P.W.1. The respondents are wantonly prolonging the case without cross examining P.W.1 even after giving sufficient opportunities. This Court, vide its order dated 14.11.2024 directed the Registry to call for report from the Magistrate regarding pendency details of the case in C.C.No.12111 of 2018 and the same was received. In the report, the learned Magistrate has stated that after allowing petition under Section 311 Cr.P.C. from 21.07.2022 to 27.10.2022 the case was pending for cross examination of P.W.1 and both the parties requested time for reporting settlement for which the matter was adjourned till 04.01.2023 and thereafter again the case was pending for continuation of cross examination of P.W.1 till



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now and in the interregnum, petition under Section 311 Cr.P.C was filed for more than two times and the same was also allowed.

5 From the statement of the learned Magistrate, it is clear that the respondents purposefully protracted the case in one way or other by filing petition under Section 311 Cr.P.C. for many times, which is nothing but abuse of process of law. However, in order to give opportunity to the respondents, the learned Magistrate is directed to fix a date for cross examination of P.W.1. The respondents are directed to instruct their counsel to complete the cross examination on the same day, when the matter is listed by the Magistrate, failing which, the learned Magistrate is directed to issue NBW against the respondent and if any recall petition is filed by the respondent the same shall be dealt with in accordance with law, since already he had filed the same petition at several occasions and protracted the proceedings and keep the respondent in judicial custody till the disposal of the case. Further if the respondent is not co-operating for trial, the learned Magistrate is directed to conduct the examination of witnesses and cross examination on day to basis since the case is pending from the year 2018. The learned Magistrate is directed to conclude trial in C.C.No.12111 of 2018 and dispose of the case within a period of three months



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from the date of receipt of a copy of this order.

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6 Accordingly with the above directions, the criminal original petition shall stand dispose of.

26.11. 2024

Speaking Order/Non Speaking Order
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To

The Judicial Magistrate, Fast Track Court – III, Saidapet, Chennai.



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P.VELMURUGAN, J.,

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