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C.R.P.(PD).Nos.3532 and 3641 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).Nos.3532 and 3641 of 2019
and CMP.No.23183 and 22348 of 2019

CRP (PD).No.3532 of 2018:

M.S.Dhanasingh (deceased)
1.D.Sathya Vijaya Kumar
2.Dhanasingh Philomina Farjana
3.D.Rajesh Kumar
4.D.Raswanth Raj
5.K.Stella Padmini
6.Sharmila Antony Raj
7.D.Naveen Prem Kumar

... Petitioners

VS.

M.E.Mariappan

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 11.12.2017

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C.R.P.(PD).Nos.3532 and 3641 of 2019

and made in I.A.No.14963 of 2017 in I.A.No.9869 of 2014 against

I.A.No.2464 of 2014 in O.S.No.1818 of 2013 on the file of the V

Assistant City Civil Court, Chennai and allow this Civil Revision

Petition.

For Petitioners	: Mr.S.Baskaran
For Respondent	: Mr.N.Ilayaraja

CRP (PD).No.3641 of 2019:

M.S.Dhanasingh (deceased)
1.D.Sathya Vijaya Kumar
2.Dhanasingh Philomina Farjana
3.D.Rajesh Kumar
4.D.Raswanth Raj
5.K.Stella Padmini
6.Sharmila Antony Raj
7.D.Naveen Prem Kumar

... Petitioners

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M.E.Mariappan

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 11.12.2017



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and made in I.A.No.14964 of 2017 in I.A.No.9869 of 2014 against I.A.No.2463 of 2014 against in I.A.No.12176 of 2014 in O.S.No.1818 of 2013 on the file of the V Assistant City Civil Court, Chennai and allow this Civil Revision Petition.

For Petitioners	: Mr.N.Suresh
For Respondents	:Mr.A.Kripakaran for M/s.V.S.Senthilkumar for R1 M/s.S.Williams for R2 No Appearance for R3

COMMON ORDER

These Civil Revision petitions are filed challenging the order passed by the Court below allowing the applications filed by the petitioner/defendant to reopen I.A.Nos.12176 of 2013 and 2464 of 2014.

2. The respondents herein filed a suit seeking injunction restraining the petitioner/defendant from interfering with the possession and enjoyment of the ground floor and the right of user in respect of staircase in ground, first and second floor. Pending the suit, the



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respondent filed two applications in I.A.Nos.12176 of 2013 and 2464 of 2014 seeking interim mandatory injunction directing the petitioner to remove the grill gate put up in a suit property and to remove the vehicles parked by him in the property bearing Door No.16, Mahalingapuram Main Road, Chennai – 34 and he also sought for police protection to remove the cars parked in front of the ground floor portion in the suit property. The said two applications were allowed ex-parte by orders dated 07.01.2014 and 30.04.2014 respectively.

3. The respondents filed two applications to set aside the above said exparte orders in I.A.Nos.2463 and 9869 of 2014. Both the applications were closed on the ground that the suit was ripe for trial. Hence, respondents filed instant application in I.A.Nos.14963 and 14964 of 2017 seeking to reopen I.A.Nos.2463 and 9869 of 2014, which were closed on the ground that the suit was ripe for trial.

4. The learned counsel appearing for the petitioners submitted that the order passed by the Court granting interim mandatory



injunction and giving police protection has been already complied and therefore, there is no necessity to reopen the applications which were closed. It is seen from document included in the typed set of papers, the applications filed by the respondent herein to set aside the ex-parte order passed in I.A.Nos.12176 of 2013 and 2464 of 2014 were closed by the Court only on the ground that the suit was ripe for trial and the same was not disposed on merits. Though the said order was passed as early as in 2016, till today, the suit is pending and the suit is not disposed of.

5. The application filed by the respondent to set aside the ex-parte order was closed without passing any order on merits. Even, thereafter, the suit has not been disposed and the same has been pending for the past eight years. In order to give an opportunity to the respondent, the Court below allowed the present applications. When the suit is still pending even after eight years, the Court below rightly allowed the instant application for opening earlier interlocutory applications which were not disposed on merits. The same will not cause any prejudice to the petitioners.



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6. In such circumstances, I do not find any error in giving an opportunity to the respondent to reopen interlocutory application filed by him to set aside the ex-parte order passed in interlocutory applications in I.A.Nos.12176 of 2013 and 2464 of 2014.

7. Accordingly, both Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

08.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To
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The V Assistant City Civil Court,
Chennai.



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S.SOUNTHAR, J.

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