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C.R.P.Nos.1224 & 1287 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.06.2024
PRONOUNCED ON : 9.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.Nos.1224 & 1287 of 2024
and
C.M.P. Nos.6429 & 6824 of 2024

Madras Race Club,
Represented by its
Additional Secretary
V.R.Shrinivaasan
Guindy, Chennai – 600 032

... Petitioner / Revision Petitioner
in both CRPs

Vs.

1.Jayapoorna Chandra Rao
2.Aruna Devi
3.Jaganatha Pandian
4.Jayasimha Pandian
5.Gopal
6.M/s.Bay Oriental Reality Pvt Ltd.,
Rep. By its Director,
Dr.Saleem Ibrahim Brothers
College Road, Chennai – 600 006.

7.Sri Venkatachalapathy Nagar Welfare Association
Represent by its Secretary,
Vadapalani Andavar Street,
Valaasaravakkam

8.Sasan Chemicals Limited
21. Gopala Krishna Road,
T.nagar, Chennai – 600 017

... Respondents / Respondents
in both CRPs



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COMMON PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the order of dismissal dated 24.01.2024 in I.A.No.7 of 2023 and I.A.No.8 of 2023 respectively in O.S.No.11761 of 2010 passed by the learned XVII Additional City Civil Court, Chennai.

For Petitioner : Mr.K.V.Babu
For Mr.T.Balaji
(in both cases)

For R1 : Mr.N.S.Sivakumar
(in both cases)

COMMON ORDER

Since the issue involved in both the Civil Revision Petitions is one and the same, they are disposed of by this common order.

2. Earlier, the Petitioner / Plaintiff filed a Suit in C.S.No.366 of 2004 before this Court, for the relief of permanent injunction, and this Court transferred the same to the file of the learned XVII Additional Judge, City Civil Court, Chennai, on the point of enhancement of pecuniary jurisdiction and the same was renumbered as O.S.No.11761 of 2010.



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3. The Petitioner / Plaintiff filed an Interlocutory Application in I.A.No.07 of 2023 in O.S.No.11761 of 2010 under Order XIV Rule 5 r/w Section 151 of CPC., to strike down the additional issues framed by the learned XVII Additional Judge, City Civil Court, Chennai, on 12.06.2023. Further, the Petitioner filed an Application in I.A.No.08 of 2023 under Order 12 Rule 6 of CPC., to claim Judgment on alleged admission from the written statement without waiting for determination of questions in controversy in the Suit without letting evidence. The learned XVII Additional Judge, City Civil Court, Chennai, dismissed the above Applications. Aggrieved over the same, the present Civil Revision Petitions have been filed.

4. Mr.K.V.Babu, the learned counsel appearing for the Petitioner / Plaintiff would submit that, if at all the 1st Respondent is seeking for recovery of possession, he should have resorted to file a separate suit for recovery of possession or otherwise should have filed a counter claim with a cause of action and payment of necessary court fees for such recovery of possession. The Court below ought not to have appreciated the Memo filed by the 1st respondent seeking to frame additional issues touching upon the title of the property, when the



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Suit is for a bare injunction. The Court below ought not to have concluded that the present Applications filed after lapse of 19 years and written statement of 1st Defendant was filed after a period of 18 years during 2022 and when the additional issues framed only on 22.06.2023. The trial Judge is wrong in gone into the issue of maintainability of the Suit on the ground that the suit is not par with the Pecuniary Jurisdiction, when the application is filed only for the purpose of striking off the additional issues which framed after a period of 19 years. The learned counsel for the petitioner, in support of his contentions, has relied on the Judgment of the Hon'ble Apex Court in ***Karan Kapoor Vs. Madhuri Kumar*** reported in **(2022) 10 SCC 496; Uttam Singh Dugal and CoLtd. Vs. Union Bank of India** reported in **(AIR 2000 SC 2740); Jeevan Diesels and Electricals Ltd., Vs.Jasbir Singh Chadha** reported in **(2010) 6 SCC 601; Parivar Seva Sansthan Vs. Veena Kalra** reported in **AIR 2000 Del. 349**; Union of India Vs. Ibrahim Uddin and Anr reported in (2012) 8 SCC 148 and **Jitta Anjy Reddy Vs Ahmed Alikhan** reported in **(1990) SCC OnLine AP 430**.

5. Mr.N.S.Sivakumar, the learned counsel for the Respondents / Defendants would submit that the present Revisions are filed only to



protract the trial proceedings inspite of time limited stipulated twice by this Court arise out of the proceedings in C.R.P.(PD)No.6 of 2014, dated 17.02.2021 and C.R.P.No.82 of 2023, dated 13.03.2023 wherein six months' time stipulated by this Court to complete the trial. The Petitioner Club has no role to play when the Suit scheduled property hit by and Urban Land Ceiling Act, 1979 and the same was repealed in the year 1999 and the Government of Tamil Nadu did not use the suit scheduled property for any public use hence upon the struck down of Urban Land Ceiling Act, the Suit scheduled property vested back to the 1st Respondent. In the year 2004, the Petitioner with a criminal intention to grab the valuable property in the disguise of expired lease, trespassed into the suit schedule property, obtained orders and squatting over the suit property under the pretext of the order of this Court in Crl.O.P.No.4486 of 2004, dated 17.03.2004, constructed a compound wall and kept it as a vacant land all along ever since lease period.

6. The learned counsel for the respondents would further submit that the Petitioner with ill intention to grab the valuable property violating the order of this Court in O.A.No.368 of 2004, in February 2021 tried to alter the physical features of the suit scheduled



property, started construction in the suit scheduled property and in that regard a complaint has been lodged by the 1st respondent. The Petitioner deliberately prolonged the litigation and wasted the precious time of the Courts and such a conduct deserves exemplary costs. The learned counsel for the respondents, in support of his contentions, has relied on the decision of this Court in ***K.R.Arumugam (Died) vs. P.Semmalar*** reported in ***(2020 (3) CTC 742)*** and the Judgments of the Hon'ble Apex Court in ***Premji Ratansey Shah and Others Vs. Union of India and Others*** reported in ***(1994) 5 SCC 547***; in ***Modula India Vs. Kamakshya Singh Deo*** reported in ***(1988) 4 SCC 619*** and ***Bhawanji Lakhamshi and Others Vs. Himatlal Jamnadas Dani and Others*** reported in ***(1972) 1 SCC 388***.

7. I have considered the rival submissions of the learned counsels, the impugned order, the materials on record and the decisions cited.

8. It is not in dispute that the property in dispute originally belong to the father of the 1st Respondent / 1st Defendant viz., Vadlamannati Venkatanarayanan Rao, who purchased the vast extent



C.R.P.Nos.1224 & 1287 of 2024

of land admesuring 12.53 Acres comprising in S.No.76/2 & 77 part in Velachery Village, Saidapet Taluk, through the Court auction on 10.12.1926 in a Suit in C.S.No.561 of 1924 and he was issued with a sale certificate. The 1st Respondents's father leased out the Suit schedule property to the Plaintiff Club on a registered Lease Deed, dated 26.071927, originally for a period of 10 years and on the expiry date, the lease was renewed for a further period of 10 years till 1956 and the lease was not renewed thereafter, but the Petitioner Club remains in possession till today in the Suit schedule property. Out of entire extent of the Property ie., 12.53 acres, 2 acres was separated and 10.53 acres of land was auctioned in the year 1975 and registered as Document No.1 of 1976 at SRO Chennai South Joint II.

9. On perusal of the records it is seen that from 2004 onwards there was a dispute with regard to ownership of the property between the petitioner and the respondents and other third parties also claimed right over the property. The petitioner disputed the title of the 1st Respondent, but admitted that the Petitioner has been inducted as a tenant and he is holding right over the property. Be that as it may, the Petitioner / Plaintiff filed I.A.No.07 of 2023 under Order XIV Rule 5 r/w Section 151 of CPC., to strike down the additional issues



framed by the XVII Additional City Civil Court, Chennai, on 12.06.2023. Further, the Petitioner filed an Application in I.A.No.08 of 2023 in O.S.No.11761 of 2010 under Order 12 Rule 6 of CPC., to claim Judgment on alleged admission from the written statement without waiting for determination of questions in controversy in the Suit without letting evidence. The learned XVII Additional Judge, City Civil Court, Chennai, dismissed the above Applications. Against which, the present Civil Revisions.

10. Further, the Petitioner claimed that he has got 99 old leasehold right over the suit property under the right of lease by holding over and therefore, the possession of the petitioner should not be disturbed. From the plain reading of the written statement it is clear that the defendants are the purchaser of the suit property in Court auction from the lesser, and therefore, the lease must be deemed to have come to halt. The claim and counter claim cannot come within umbrage of unequivocal and unqualified admission upon which the petitioner could be given a decree under Order XII Rule 6 CPC. Even this Court consider that it is an admission, much less, an unqualified possession quo a lessee by holding over, that could not be treated as an unqualified admission for the purpose of Order XII Rule



6 CPC., as the same is contentious issue and cannot be deemed to be conclusive admission warranting the Court to use its discretion while granting declaratory decree under the generic provision of Section 34 of the Specific Relief Act, 1963.

11. In order to appreciate the submission made by the learned Counsel, it is relevant to quote Order XII Rule 6 of the Code of Civil Procedure, which reads as under:

“Judgment on admissions.-(1) Where admissions of fact have been made either in the pleading or otherwise, whether orally or in writing, the court may at any stage of the suit, either on the application of an party or of its own motion and without waiting for the determination of any other question between the parties, make such Order or give such judgment as It may think fit, having regard to such admissions.

(2) Whenever a judgment is pronounced Under Sub-rule (1) a decree shall be drawn up in accordance with the judgment and the decree shall bear the date on which the judgment was pronounced.”



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12. A bare reading of Order 12 Rule 6 CPC would indicate that the Court either on the application of any party or in its own motion and without waiting for determination of any other question between the parties proceed to give judgment as it may think fit having regard to the clear and unequivocal admission. Such an admission in the written statement could be in respect of entire claim made in the suit or even for the part of the claim for which decree could be passed separately. That it imposes duty cast on the court that the only condition is the admission should be unequivocal, clear and positive from the written statement. In the instant case, the status of the Petitioner itself a question of fact and law and that question of fact and law to be adjudicated after adducing evidence and the petitioner who claims a decree must prove all the material facts on which he relies in support of its claim.

13. A bare reading of the proviso to Order 8 Rule 5, very specifically states that the Court may in its discretion require any fact so admitted to be proved otherwise than by such admission. Therefore, the provision provided in CPC., on admissions, contemplates that the court should exercise a discretion to require



proof, notwithstanding the absence a specific denial by the defendant. The court is equally vested with a discretion to ask for independent corroboration of a fact not specifically denied in the pleadings by the other party. In the instant case, the question of facts of status is involved, so it is not proper to grant a decree without clear proof of the fact. In the instant case the possession has been given by the Court pursuant to the earlier orders cannot be taken as an admitted fact regardless the possession is with the Petitioner/Plaintiff, decree cannot be passed. The admission of fact must be culled out from the pleading to grant a judgment on decree as envisaged under Order 8 Rule 5 and Order 12 Rule 6 of CPC and Section 58 of the Indian Evidence Act, 1872. Therefore, the Petitioner put to strict proof of material facts in examining the witness and documents such as payment of lease rentals, the plea of holding over right, a previous and subsequent possession, right to hold possession and so on.

14. Having regard to the controversy between the parties in the present suit and material propositions of fact involved in the list, issues were framed to adjudicate the matter. The question of striking off the additional issues cannot be countenanced. Therefore, the interim applications filed by the petitioners per se not maintainable in



C.R.P.Nos.1224 & 1287 of 2024

law. The learned XVII Additional Judge, City Civil Court, Chennai, has rightly dismissed the Interlocutory Applications. The petitioner herein cannot be allowed to misuse the mercies of the law by filing the Revisions and I do not find any reason to interfere with the findings given by the trial Court.

15. In view of the forgoing reasons, the Civil Revision Petitions are dismissed. Since the Suit is pending for nearly two decades, the trial Court is directed to complete the trail and dispose of the Suit within a period of six months from the date of receipt of a copy of this order. It is made clear that the six month period is only an outer limit. Consequently, the connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

09.01.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes
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C.R.P.Nos.1224 & 1287 of 2024

To

The XVII Additional Judge,
City Civil Court,
Chennai



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C.R.P.Nos.1224 & 1287 of 2024

M.NIRMAL KUMAR, J.

vv2

PRE-DELIVERY ORDER
IN
C.R.P.Nos.1224 & 1287 of 2024

09.01.2025