

In the High Court of Judicature at Madras

Dated : 22.1.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Civil Revision Petition (PD) No.3495 of 2014 and M.P.No.1 of 2014

K.Rathina

...Petitioner

Vs

M/s.Yuga Developers, rep.by
Mr.R.Suresh

...Respondent

PETITION under Article 227 of The Constitution of India against the final and decretal orders dated 22.4.2014 in C.M.A.No.49 of 2013 on the file of the Subordinate Court, Poonamallee confirming the final and decretal orders dated 1.8.2013 in I.A.No.678 of 2013 in O.S.No.269 of 2013 on the file of the Principal District Munsif Court, Poonamallee.

For Petitioner : Ms.P.Veena Suresh
For Respondent : Mr.S.Rajasekar

ORDER

The civil revision petition arises out of concurrent orders passed by the Trial Court and the Appellate Court, rejecting a prayer for injunction.

2. Heard Ms.P.Veena Suresh, learned counsel for the petitioner and Mr.S.Rajasekar, learned counsel for the respondent/caveator.

3. The petitioner herein filed a suit in O.S.No.269 of 2013 on the file of the Principal District Munsif Court, Poonamallee praying for a decree of permanent injunction restraining the respondent herein from obstructing the plaintiff, while fencing the suit property, by interfering with her peaceful possession and enjoyment. Along with the plaint, the petitioner filed an application in I.A.No.678 of 2013 for an interim order of injunction. After contest, the Trial Court dismissed the application for injunction by an order dated 1.8.2013.

4. As against the said order of the Trial Court, the petitioner filed a miscellaneous appeal in C.M.A.No.49 of 2013 on the file of the Subordinate Court, Poonamallee. But, the same was dismissed on 22.4.2014. Therefore, the petitioner is before this Court.

5. Both the Courts below have considered the rival contentions and the documents marked on both sides. The petitioner had filed five documents as exhibits and the respondent filed about nine documents as exhibits. The Court below considered the prima facie case, balance of convenience and the question of irreparable hardship. Therefore, I do not find any reason to interfere with the orders of the Courts below.

6. However, Ms.Veena Suresh, learned counsel for the petitioner contended that the Courts below have almost adjudicated upon the claim in their judgments and that therefore, they should be set at naught.

7. However, it is needless to point out that the findings recorded at the time of interlocutory application, cannot have a bearing at the time of final disposal of the suit.

8. Therefore, clarifying that the findings recorded by both the Courts below cannot have a bearing upon the final disposal and that the final disposal of the suit should depend upon the oral and documentary evidence let in by both parties, the above civil revision petition is dismissed. No costs.

9. Since the pleadings are already complete, the Trial Court shall dispose of the suit within three months.

22.1.2015

Internet : Yes

To

1.The Subordinate Court, Poonamallee.

2.The Principal District Munsif Court, Poonamallee.

RS

V.RAMASUBRAMANIAN,J

RS

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