

In the High Court of Judicature at Madras

Dated : 19.1.2015

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

Civil Revision Petition (PD) No.20 of 2015 and MP.No.1 of 2015

1.Koneri
2.Kamala
3.Arunachalam
4.Indirani
5.Lakshmi

...Petitioners

Vs

Kandayee

...Respondent

PETITION under Article 227 of The Constitution of India against the order dated 12.11.2014 made in I.A.No.1302 of 2014 in O.S.No.189 of 2006 on the file of the District Munsif Court, Sangagiri.

For Petitioners : Mr.J.Franklin

ORDER

The petitioners, who are the defendants in the suit for permanent injunction, have come up with the above civil revision petition, challenging an order passed by the Trial Court rejecting their application for filing an additional written statement.

2. Heard Mr.J.Franklin, learned counsel for the petitioners.

3. The respondent herein filed a suit in O.S.No.189 of 2006 on the file of the District Munsif Court, Sangagiri against the petitioners herein only for a decree of permanent injunction. The petitioners herein filed a written statement claiming that the defendants are in possession and enjoyment of

(2)

the suit property.

4. After the matter went for trial and the evidence on the side of the plaintiff was closed and two witnesses had been examined on the side of the defendants, the petitioners/defendants took out an application in I.A.No.1302 of 2014 for filing an additional written statement under Order VIII Rule 9 of the Civil Procedure Code. This application has been rejected by the Trial Court, forcing the defendants to come up with the above civil revision petition.

5. As rightly observed by the Trial Court, the attempt of the petitioners is only to protract the proceedings. The trial in the suit is almost over with the evidence on the side of the plaintiff having been closed long ago and two witnesses on the side of the defendants having already been examined. The trial itself was protracted for five years by citing the pendency of another civil revision petition. As a matter of fact, a persual of the averments contained in the additional written statement would show that the petitioners are raising issues of title. The suit is only for bare injunction. Therefore, what is necessary for the Court below is to see as to who is in possession and whether the possession is lawful or not. It is not a declaratory suit. Therefore, the Trial Court is right in rejecting the application.

6. Hence, the civil revision petition is dismissed. Consequently, the above MP is also dismissed.

19.1.2015

Internet : Yes

V.RAMASUBRAMANIAN,J

RS

To
The District Munsif Court, Sangagiri.

CRP(PD)No.20 of 2015
and MP.No.1 of 2015

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