

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.2068, 2069, 2070, 2071, 2072 and 2073 of 2015
and M.P.Nos.1 of 2015(6 in Nos.)

The Estate Officer,
(Also Station Commander),
Station Headquarters,
Fort St. George,
Chennai-600 009

.... Petitioner in all the revision petitions

vs

Lt.Col.Mahadev.C ... Respondent in CRP Nos.2068 & 2069/2015

Lt.Col.Ravindra Rao ... Respondent in CRP Nos.2070 & 2071/2015

Lt.Col.Vikranth Sardhana ... Respondent in CRP Nos.2072 & 2073/2015

Civil Revision Petitions filed under Article 227 of the Constitution of India against the orders in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015 in I.A.Nos.5369, 5370, 5371, 5372, 5373 and 5374 of 2015 in O.S.Nos.1967, 1966 and 1965 of 2015 on the file of I Assistant City Civil

Court, Chennai.

For Petitioner : Ms.P.T. Asha for
M/s Sarvabauman Associates

For respondents
in all the petitions : Mr.Ashok Menon

COMMON ORDER

Since the issues involved in all the Civil Revision Petitions are one and the same, all the Civil Revision Petitions are disposed of by this Common Order.

2. The respondents, who are Lieutenant Colonels in Indian Army, have filed separate suits in O.S.Nos.1965, 1966 and 1967 of 2015, on the file of I Assistant City Civil Court, Chennai, for a declaration that the order, passed by the petitioner dated 18.10.2014, directing them to shift from the allotted quarters, is illegal and void and not binding on them.

3. In the said suits, the respondents filed their counter in I.A.Nos.5369, 5370, 5371, 5372, 5373 and 5374 of 2015, seeking for grant

of an order of injunction, restraining the petitioner herein from cancelling their study leave, pending disposal of the suits and also restraining the petitioner/defendant from collecting the market rent and/or penal rent in respect of the premises, in their occupation.

4. According to the respondents, they applied for study leave and they were sanctioned study leave by Directorate General Mil Trg (MT-9), General Staff Branch, Army Headquarters DHQ PO, New Delhi – 110 001 on 2.7.2014, however, the respondents have not made the Leave Sanctioning Authority as a party to the Suit. The suits have been filed only as against the petitioner herein. Since the respondents decline to shift the residence from the existing premises, apprehending that their leave may be cancelled by the authority, the respondents have filed the Suits.

5. Ms.P.T. Asha, learned counsel appearing for the revision petitioner submitted that the respondents have given undertaking at the time of availing the study leave and that they cannot remain in the premises for ever. Further, the learned counsel submitted that the suits, filed by the respondents, are not maintainable, in view of Sec.33 of The

Armed Forces Tribunal Act, 2007.

6. Countering the submissions made by the learned counsel for the petitioner Mr.Ashok Menon, learned counsel appearing for the respondents, submitted that the suits are maintainable and that the petitioner has not filed any application to reject the plaint so far, stating that the suits are not maintainable.

7. In the injunction applications, filed by the respondents, the trial Court ordered Notice to the petitioner herein, returnable by 10.4.2015. Thereafter, on 10.4.2015, the matter was adjourned to the first week of June 2015. In the meantime, stating that the petitioner herein had sent a letter dated 17.4.2015 to the respondents, claiming Damage Rate of Rent (DRR) at 65 times their licence, the respondents have filed applications in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015, seeking the very same relief, sought for in the Applications in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015. In the applications in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015, the respondents have prayed for an interim injunction till the disposal of the injunction application in I.A.Nos.

5369, 5370, 5371, 5372, 5373 and 5374 of 2015.

8. Though the trial Court had ordered notice in the applications in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015, granted an order of status-quo in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015 by order dated 29.4.2015.

9. In case of any urgency in the matter for obtaining any interim order, the respondents should have filed applications to advance the hearing in I.A.Nos.5369, 5370, 5371, 5372, 5373 and 5374 of 2015, in which, notices were ordered to the petitioner herein. Instead of doing so, the respondents filed fresh applications, seeking for an injunction, till the disposal of the applications in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015. The trial Court granted an order of status-quo in the applications in I.A. Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015, when it had declined to grant an order of injunction in the applications in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015 and posted the matter after summer vacation.

10. In the case of any urgency in the matter, the respondents should have filed an application to advance the hearing, requested to take up the matter early and sought for interim orders in application in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015. The trial Court should not have entertained the applications in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015. When the trial court was not concerned for grant of interim order in applications in I.A.Nos.5369, 5370, 5371, 5372, 5373 and 5374 of 2015, it ought not have granted an order of status-quo in the applications in I.A.Nos. 6671, 6672, 6673, 6674, 6675 and 6676 of 2015. The order passed by the trial court is liable to be set aside.

11. Since the suit in O.S.Nos.1967, 1966 and 1965 of 2015 as well as the applications in I.A.Nos. 5369, 5370, 5371, 5372, 5373 and 5374 of 2015 are pending, I am not going into the merits of the case in detail, which would affect the case of the parties before the trial court.

12. In these circumstances, the order passed by the trial court in the applications in I.A.Nos.6671, 6672, 6673, 6674, 6675 and 6676 of 2015 are liable to be set aside and accordingly, the same are set aside. The trial

court shall decide the applications in I.A.Nos.5369, 5370, 5371, 5372, 5373 and 5374 of 2015, on merits and in accordance with law. The applications in I.A.Nos. 6671, 6672, 6673, 6674, 6675 and 6676 of 2015 are dismissed.

13. Ms.P.T. Asha, learned counsel appearing for the petitioner submitted that the petitioner would file their counter on 11.6.2015.

14. With the above observation, all the Civil Revision Petitions are allowed. No costs. Consequently, connected MPs are closed.

09-06-2015

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Index:no
website:yes

Note:Issue Order copy on 10.6.2015

To
The I Assistant City Civil Court, Chennai.

M. DURAISWAMY,J.,

C.R.P.(PD)Nos.2068, 2069, 2070, 2071, 2072
and 2073 of 2015

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