

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) No.223 of 2015

and

M.P.Nos.1 to 3 of 2015

P.Ashokan

...

Petitioner

Vs.

P.Anbazagan

...

Respondent

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and dated 13.01.2015 made in I.A.No.29 of 2015 (amended vide order of court dated 30.01.2015 made in M.P.No.2 of 2015) in O.S.No.126 of 2013 on the file of the District Munsif Court, Tiruvarur.

For Petitioner : Mr.Mr.J.Nandagopal

For Respondent : Mr.Edwin Prabakar

ORDER

This civil revision petition is directed against the order dated 13.01.2015 passed by the District Munsif Court, Thiruvarur, in I.A.No.29 of 2015 in O.S.No.126 of 2013.

2. The respondent instituted the suit in O.S.No.126 of 2013 against the petitioner before the District Munsif, Thiruvavur, for permanent injunction and an application in I.A.No.322 of 2013 was filed for interim injunction under Order 39 Rule 1 & 2 C.P.C. The trial Court granted interim injunction on 04.09.2013.

3. While so, the respondent filed I.A.No.445 of 2014 under Order 39 Rule 2 (A) of C.P.C. alleging that the petitioner has disobeyed the order passed in I.A.No.322 of 2013 dated 04.09.2013 and filed an application in I.A.No.30 of 2015 under Section 151 C.P.C. seeking police protection to enforce the interim order passed in I.A.No.322 of 2013.

4. The application was opposed by the petitioner stating that the prayer sought for in the application was not maintainable and it can be granted only after conclusion of the trial. The trial Court has directed the Inspector of Police, Koradacherri Police Station to render aid/assistance for implementation of the order passed in I.A.No.322 of 2013. Challenging the order, the present civil revision petition is filed.

5. Mr.J.Nandagopal, learned counsel for the petitioner submitted that when the injunction application was posted for further orders on 28.01.2015 and on the basis of the ex parte interim injunction granted was extended in favour

of the respondent, the application filed for police protection cannot be granted. It is further submitted that the Executive Magistrate had initiated the proceedings under Sections 107 and 145 of the Criminal Procedure Code and at that juncture, the respondent wantonly filed this application for Police Aid only in order to harass the petitioner through the Police authorities. It is further contended that the respondent herein, who is the younger brother of the petitioner got a settlement of those properties from their father without the knowledge of the petitioner and the description of the properties mentioned in the petition is false.

6. Per contra, Mr. A.Edwin Prabakar, learned counsel for the respondent submitted that the petitioner has deliberately and wantonly disobeyed the injunction order granted in I.A.No.322 of 2013 and also attempted to interfere with the possession and enjoyment of the respondent, that the petitioner herein along with his wife and six other persons dugout a pond in the suit property and attacked the father of the first respondent for which a criminal complaint was lodged with the Koradacheri police station and the same is registered in crime No.205 of 2014 under Sections 147, 148, 323, 324 and 506(ii) .

7. The learned counsel submitted that the trial Court has got power to

order police protection to render aid to the aggrieved parties for the due and proper implementation of order of temporary injunction.

8. The learned counsel has relied upon the judgment of the Division Bench of this Court reported in (1993) 1 MLJ 274, **Sri-la-Sri Sivasubramanyananda Swami vs. Sri-la-Sri Arunachalasamy Chidambaram and Another**, wherein it is held as follows;

“34. In the light of the above discussion of ours, the question referred is answered as follows:

In appropriate cases, the civil court has the power and is indeed under a duty, to issue suitable directions to police officials, as servants of law, to extend their aid and assistance in the execution of decrees and orders of the civil courts or in implementing an order of injunction passed by it.”

9. The principles laid down by the Division Bench was followed by this Court in 2003 (1) MLJ 550, in which, it has been held as follows;

6.It is álso relevant to refer the Division Bench decision of this Court in Sri-la-Sri Sivasubramanyananda Swami v.

Sri-la-Sri Arunachalasamy, 1992 T.L.N.J. 120, wherein after considering the relevant provisions relating to grant of injunction and Sec.151, C.P.C. The Bench has concluded that,

“In view of the above position of law, it has to be held that in appropriate cases, directions under Sec.151 of the Code can be issued by the Civil Courts to the police authorities to render aid to the aggrieved parties for the due and proper implementation of the order of temporary injunction or a decree for permanent injunction granted by the Civil Court.”

finally, their Lordships have concluded that,

‘In appropriate cases, the Civil Court has the power and is indeed under a duty, to issue suitable directions to police officials, as servants of law, to extend their aid and assistance in the execution of decrees and orders of the Civil Courts or implementing an order of injunction passed by it.’

K.KALYANASUNDARAM, J.

sms

10. In the case at hand, it is not in dispute that the trial Court has granted interim injunction in I.A.No.322 of 2013 on 04.09.2013. When the interim order was in force, the respondent has filed I.A.No.445 of 2014 seeking to punish the petitioner herein for violation of the order of interim injunction. The trial Court, has issued directions to the police to extend their aid and assistance only for due implementation of the order of interim injunction of the Civil Court.

11. In the light of the decisions referred supra, I do not find any illegality or irregularity in the order impugned in this civil revision petition. In fine, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2015

Index : Yes/No

Internet: Yes/No

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To

The District Munsif Court, Tiruvarur.

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