

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2649 of 2015 &
M.P.No.1 of 2015

Vellingiri
Petitioner

...

v.

1.Arukkaniammal
2.Renuka Devi
Respondents

...

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the memo filed by the 1st respondent on 29.04.2015 in I.A.No.1044 of 2014 in Probate O.P.No.373 of 2014 on the file of the Principal District Judge of Coimbatore.

For Petitioner : Mr.C.Deivasigamani_

O R D E R

Challenging the order passed in the memo filed by the 1st respondent on 29.04.2015 in I.A.No.1044 of 2014 in Probate O.P.No.373 of 2014 on the file of the Principal District Court, Coimbatore, the petitioner in the Original Petition has filed the above Civil Revision Petition. He also filed an application in I.A.No.1044 of 2014 under Order 39 Rule 1 and 2 of CPC praying for interim injunction. The Trial Court, by order dated 23.12.2014, granted an order of interim injunction and also ordered notice to the respondents by RPAD and directed the petitioner to comply with Order 39, Rule 1 and 2 of CPC. Thereafter, the application came up for hearing on several dates. However, the interim order was not extended from 06.01.2015.

2. The respondents filed a memo before the Trial Court stating that the petitioner has not complied with Order 39 Rule 1 and 2 of CPC and also prayed the Trial Court to clarify that the order of interim injunction is not in force.

3. The Principal District Court, Coimbatore, closed the memo stating that the interim injunction granted on 23.12.2014 was not extended from 06.01.2015 and therefore, no further clarification is required and posted the matter on 3.6.2015.

4. The petitioner has enclosed the order passed by the Trial court on 23.12.2014 at page No.21 of the typed set of papers. However, the petitioner has not enclosed the orders passed by the Trial Court on 6.1.2015, 7.1.2015, 9.1.2015, 21.1.2015 and 4.2.2015. In fact, the petitioner has taken xerox of the docket order omitting the orders from 6.1.2015.

5. On a reading of the order passed on 6.1.2015, it is clear that an objection was raised by the respondents stating that the petitioner has not complied with Order 39 Rule 1 and 2 of CPC. On 6.1.2015, there was no order passed by the Trial Court extending the interim injunction. On subsequent dates also, the interim injunction was not extended. Stating this reason, the Principal District Court, Coimbatore, by order dated 29.04.2015, has closed the memo observing that the interim injunction was not extended from 6.1.2015 and therefore, no further clarification is required. Aggrieved over this order, the petitioner has filed the present Civil Revision Petition.

6. Since the Principal District Court, Coimbatore, had only clarified the order passed on 6.1.2015 in the memo, I do not find any reason to interfere with the order passed in the said memo.

7. In these circumstances, the Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. However, it is open to the petitioner to prosecute the Interlocutory Application in I.A.No.1044 of 2014 on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

21.07.2015

Rj

To

The Principal District Judge,
Coimbatore.

M. DURAISWAMY,J.,

Rj

C.R.P.(NPD)No.2649 of 2015 &
M.P.No.1 of 2015

21.07.2015