

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(PD) NO.275 OF 2015
AND M.P.NO.1 OF 2015

1.Mohan Breweries and Distilleries Ltd.
Rep. By its Managing Director
Royala Tower, No.158, Anna Salai,
Chennai - 600 002.

2.T.K.Krishnamurthy
3.M.Nandagopal
4.Aravind Nandagopal

... Petitioners

Vs.

D.L.Sukumar
S/o.T.Loganathan
Rep. By his power agent A.Sampathraj

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 18.03.2014 passed in I.A.No.49 of 2014 in O.S.No.549 of 2012 on the file of the 3rd Additional District Judge, Thiruvallur, sitting at Poonamallee Court.

For Petitioners : Mr.V.Kuberan
for M/s.Rank Associates

For Respondent : Mr.T.Muruganantham

ORDER

This Civil Revision Petition is directed against the order dated 18.03.2014 passed in I.A.No.49 of 2014 in O.S.No.549 of 2012 by the learned III Additional District Judge, Thiruvallur at Poonamallee.

2.The petitioners are the defendants in O.S.No.549 of 2012 on the file of the III Additional District Court, Poonamallee. The respondent had instituted the suit against the petitioners seeking permanent injunction contending that he is the owner of the property and he is in possession of the same. Subsequently, the first petitioner herein had instituted the suit in O.S.No.99 of 2013 for declaration of title and permanent injunction.

3.It is represented that the respondent originally filed the suit in O.S.No.549 of 2012 before the learned District Munsif, Poonamallee and subsequently, it was transferred to the III Additional District Court to be tried along with O.S.No.99 of 2013.

4.The petitioners filed an application in I.A.No.736 of 2013 in O.S.No.549 of 2012 under Order VII Rule 11 of the Code of Civil Procedure to strike off the plaint. The petitioners have contended that they are the owners of the property and they are in possession and the learned District Judge after

satisfying with their case granted interim injunction in O.S.No.99 of 2013 and that the suit filed for bare injunction is not maintainable since the petitioners have disputed the title of the respondent. The application was opposed by the respondent by filing a detailed counter affidavit. The learned Judge dismissed the application on 18.03.2014. Challenging the order, the present Civil Revision Petition is filed.

5.Heard the submissions made by the learned counsel for the petitioners as well as the learned counsel for the respondent.

6.Mr.V.Kuberan, learned counsel for the petitioners has submitted that the petitioners have instituted the suit for declaration of title and permanent injunction against the respondent. Though the respondent has claimed title over the suit property, but he has not filed suit for declaration of title. It is further submitted that after transfer of the suit from District Munsif Court to District Court, the respondent has to properly value the suit and pay the necessary court fee.

7.I am not in agreement with the contention of the learned counsel for the petitioners. The respondent has filed the suit for bare injunction claiming to be the owner of the property. The only contention of the learned

counsel for the petitioners is that since the petitioners have already filed the suit for declaration and bare injunction, the suit filed by the respondent cannot be permitted to be proceeded with. The learned III Additional District Judge having rightly observed that the petitioners have not made out case to strike off the plaint under Order VII Rule 11 of the Code of Civil Procedure, dismissed the application. Hence, I do not find any merit in this Civil Revision Petition.

8.In the result, this Civil Revision Petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

05.02.2015

Index : Yes/No
Internet : Yes/No
TK

To

The III Additional District Judge
Thiruvallur.
Sitting at Poonamallee.

K.KALYANASUNDARAM, J.

TK

C.R.P.(PD) NO.275 OF 2015

05.02.2015