

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2015

CORAM

THE HONOURABLE MR. JUSTICE D. HARIPARANTHAMAN

C.R.P.No.3509 of 2015

and

M.P.No.1 of 2015

1. L.R.Palanisamy
2. P.Sakthivel
3. P.Meiyappan
4. P.Boominathan .. Petitioners/Respondents/Defendants.

Versus

1. L.R.Subbaiyan
2. S.Venkatachalam
3. S.Viswanathan
4. Eswari ... Respondents/Petitioners/Plaintiffs.

The Civil Revision Petition has been filed against the Docket order of the District Munsif, Erode, dated 20.08.2015 made in I.A.No.568 of 2015 in O.S.No.246 of 2015.

For Petitioners : Mr.T.Gowthaman

ORDER

The first revision petitioner is the plaintiff in O.S.No.388 of 2004 on the file of the First Additional Sub Judge, Erode. The respondents herein are the defendants in O.S.No.388 of 2004. The said suit in O.S.No.388 of 2004 was decreed on 06.08.2013 in respect of item 1(b) of the suit schedule property and also permanent injunction in respect of the said property.

2. The respondents herein filed A.S.No.10 of 2014 before the Principal District Judge, Erode. The aforesaid A.S.No.10 of 2014 was allowed on 18.09.2014 and the judgment and decree in O.S.No.388 of 2004 dated 06.08.2013 obtained in favour of the first revision petitioner got reversed.

3. Thereafter, it is stated that the first revision petitioner filed Second Appeal and it is yet to be numbered.

4. While so, the respondents herein filed O.S.No.246 of 2015 on the file of the District Munsif Court, Erode, seeking for permanent injunction restraining the revision petitioners herein not to interfere with the peaceful possession of the suit schedule property. The suit schedule property is nothing but the item 1(b) of the suit schedule property in O.S.No.388 of 2004.

5. The respondents herein also sought for interim injunction under Order 39 Rule 1 & 2 CPC in I.A.No.568 of 2015 in O.S.No.246 of 2015, which is yet to be disposed of.

6. The learned counsel for the revision petitioners stated that an interim application was filed by the revision petitioners under Section 10 of CPC seeking not to proceed with the suit, as the issue involved in the suit was adjudicated earlier by the Court and hence, there is a bar for proceeding with the suit in O.S.No.246 of 2015.

7. The Trial Court passed an order dated 20.08.2015 in I.A.No.568 of 2015 in O.S.No.246 of 2015 stating that the pendency of the application under Section 10 of CPC by the revision petitioners is not a bar to decide the I.A.No.568 of 2015 in O.S.No.246 of 2015. This revision petition is against the aforesaid order dated 20.08.2015.

8. Heard the learned counsel for the revision petitioners.

9. Though the learned counsel for the revision petitioners earlier has vehemently argued to quash the aforesaid order and grant interim stay of further proceedings, later the learned counsel submitted that the trial court would be directed to dispose of both the Interim Application in I.A.No.568 of 2015 for interim injunction under Order 39 Rule 1 and 2 of CPC filed by the respondents herein as well as the Interim Application filed by the revision petitioners under Section 10 of CPC simultaneously.

10. I am also of the view that, in view of the whole facts and circumstances as narrated above, it is better for the Trial Court to dispose of both the Interlocutory Applications together.

11. The Revision Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

mra

s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

To

The District Munsif Court,
Erode.

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