

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (PD) No.669 of 2015 &
M.P.No.1 of 2015

R.Suresh Kumar

... Petitioner/Plaintiff

Vs.

1.M.Saravanan

2.The Executing Officer,

Arulmighu Vadapalani Murugan Temple,
Vadapalani, Chennai-600 026.

.. Respondent/Defendants

Prayer:

Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 13.01.2015 made in I.A.No.5542 of 2014 in O.S.No.2129 of 2013 on the file of the XIII Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.K.Selladurai

O R D E R

This revision arises out of the order passed by the XIII Assistant Judge, City Civil Court, Chennai in I.A.No.5542 of 2014 in O.S.No.2129 of 2013.

2.The petitioner as plaintiff filed the suit against the respondent for permanent injunction restraining the defendant/first respondent, his men, agents, subordinates, servants or any one claiming under him or acting on his behalf from in any way interfering with the peaceful possession and enjoyment of the suit property except due process of law.

3.The case of the petitioner is that the plaintiff is the lessee of a shop at Old No.18, New No.14, Shop Nos.2 & 3, Vadapalani Andavar Koil Street, Vadapalani, Chennai-600 026. It is averred that the suit property belongs to the Vadapalani Andavar Koil and the property was given on lease to one Thanikachalam, in the year 1979 and the plaintiff's father M.Rajendran became a sub-tenant under the said Thanikachalam in the year 1979. It is further averred that the said

Thanikachalam sold their leasehold right over the schedule of property to one Yasin Moulana. Thereafter, the plaintiff's father entered into a lease agreement and continued as sub-lessee of the suit property under the said Yasin Moulana. After the demise of plaintiff's father, the plaintiff was regularly paying the rent to the said Yasin Moulana. From February, 2013, Mr.Yasin Moulana, refused to receive the rent and on 18.03.2013, he is said to have sold the leasehold right to the defendant. Since the defendant attempted to disturb his possession, he filed the suit.

4.In the original suit, the plaintiff filed I.A.No.5542 of 2014 under Order 1 Rule 10 of CPC to implead the Executor Officer of Arulmighu Vadaplanai Murugan Temple, Vadapalani, Chennai-600 026, as second defendant in the suit and the application was dismissed. Challenging the said order, the present revision is filed.

5.Mr.Selladurai, learned counsel for the petitioner submitted that the sale by Yasin Moulana was not intimated to the plaintiff and the petitioner was in threat of eviction. It is further submitted that the defendant has not intimated the purchase of the leasehold right from Yasin Moulana and the writ petition filed by the petitioner in W.P.No.26669 of 2013 is also pending before this Court.

6.It is seen that the plaintiff has admitted that one Yasin Moulana was the owner of the leasehold right and he has paying the rent to him. It is also averred in the plaint that the defendant had purchased the leasehold right from Yasin Moulana on 18.02.2013. The main contention of the learned counsel for the petitioner is that the defendant attempted to disturb his peaceful possession and enjoyment of the plaintiff through rowdy elements and he is also given a complaint against the defendant. When the petitioner has admitted that he is a sub-lessee under Yasin Moulana and the defendant has purchased the leasehold right through the sale deed dated 18.03.2013, I am of the view that the temple is not a necessary party in this suit. The trial Court has rightly rejected the application which does not warrants any interference by this Court.

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

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

kal

To

The XIII Assistant Judge,
City Civil Court, Chennai.

C.R.P. (PD) No.669 of 2015 &
M.P.No.1 of 2015

RSY (CO)
Ey 25.02.15



WEB COPY