

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.753 of 2015 &
M.P.No.1 of 2015

G.ramesh

... Petitioner

v.

C.Daniel

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order in C.M.A.No.18/2009 on the file of the Subordinate Court, Tambaram dated 07.08.2014 in reversing the judgment and decreetal order in I.A.No.1473 of 2008 in O.S.No.307 of 2008 on the file of the District Family Court, Tambaram dated 10.09.2009.

For Petitioner : Mr.V.Raghavachari

For Respondent : Mr.K.S.Ramakrishnan_

ORDER

Challenging the judgment and decree passed in C.M.A.No.18/2009 on the file of Subordinate Court, Tambaram reversing the fair and decreetal order passed in I.A.No.1473 of 2008 in O.S.No.307 of 2008 on the file of District Family Court, Tambaram, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.307 of 2008 for permanent injunction. The defendant filed his written statement and is contesting the suit. In the said suit, the plaintiff took out an application in I.A.No.1473 of 2008 seeking for an order of interim injunction till the disposal of the suit. The defendant filed his counter and contested the application on various grounds. The trial court, after taling into consideration the case of both the parties, granted an order of interim injunction till the disposal of the suit.

3. Aggrieved over the same, the defendant preferred an appeal in C.M.A.No.18 of 2009 on the file of Subordinate Court, Tambaram and the Lower Appellate Court reversed the fair and decreetal order passed by the trial court and dismissed the interim injunction application filed by the plaintiff in I.A.No.1473 of 2008. While setting aside the fair and decreetal order passed by the trial court, the Lower Appellate Court, prima facie held that the balance of convenience was not in favour of the plaintiff and the issue involved between the parties can be decided only after the completion of the trial and not at the earlier stage.

4. Now it is brought to the notice of this court that the suit is posted for trial. It is also evident the plaintiff had the benefit of interim injunction from the year 2008 till it was vacated on 7.8.2014 by the Lower Appellate Court in C.M.A.No.18 of 2009. In other words, the plaintiff had the benefit of interim injunction for nearly six years.

5. Since the suit is listed for trial before the trial court, I am of the view that any further finding given in this Civil Revision Petition would affect the progress of the suit.

6. In these circumstances, without going into the merits of the case, I direct the trial court to decide the suit in O.S.No.307 of 2008 and dispose of the same on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order and till the disposal of the suit, the parties are directed to maintain status quo.

With this observation, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

08.04.2015

Rj

M. DURAISWAMY,J.,

Rj

To

1. The Subordinate Court,
Tambaram
2. The District Family Court,
Tambaram

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