



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD) .NO.225 of 2015

and

M.P. (MD) .No.1 of 2015

Minor.Abiyantha Sureka ... Revision Petitioner
Thro'her mother/guardian
A.Pinky Sureka

vs.

1.M/s.Tamil Nadu Industrial Investments
Corporation,
Through its Manager,
No.77B, Railway Feeder Road,
Ramanathapuram-623 504.

2.N.Ashish Karwa

3.M/s.Krishna Trading Corporation,
No.29, Kamatchiammal Kovil Street,
Tuticorin-8.
Through its Proprietor,
Anandhakumar Sureka ... Respondents

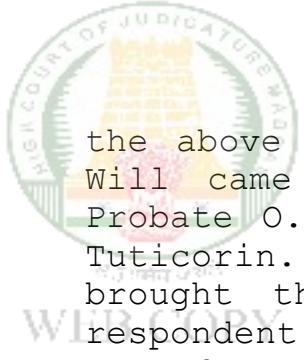
PRAYER: This Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order passed in I.A.No.139 of 2014 in O.S.No.28 of 2011 on the file of the Principal District Court, Thoothukudi dated 21.01.2015.

For Petitioner : Mr.M.P.Senthil
For Respondent-2 : Mr.G.Ghouse Khathiri

O R D E R

The plaintiff in O.S.No.28 of 2011, which has been filed for declaring the proceedings taken by the first defendant as void-ab-initio and for granting permanent injunction restraining the first defendant from interfering the plaintiff's peaceful possession and enjoyment.

2.The first defendant is the Tamilnadu Industries Investment Corporation Ltd., which had given loan to the second and third defendants. The second schedule of the property offered as collateral security on 26.09.2002. One Hari Prasath Sureka has executed a Will dated 06.06.2006 in favour of the plaintiff and



the above said Hari Prasath Sureka expired on 06.11.2006 and the Will came into force. Subsequently, the Will was probated in Probate O.P.No.16 of 2007 dated 28.06.2007 before the Sub Court, Tuticorin. In the meanwhile, the first defendant Corporation brought the property to sale and it was sold to the second respondent herein on 30.11.2007. After obtaining the sale, the second respondent herein filed R.P.O.P.No.179 of 2012 on the file of the Sub Court, Tuticorin and obtained an order of revocation of the probate granted by order dated 24.01.2014. Challenging the same, the petitioner herein has filed C.M.A.No.8 of 2014 on the file of Principal District Court, Tuticorin.

3. In view of the pendency of the Civil Miscellaneous appeal as well as the suit, the petitioner herein filed I.A.No.139 of 2014 under Section 10 of C.P.C for staying the trial of the suit till the disposal of C.M.A.No.8 of 2014. The said application came to be dismissed by the Principal District Court, Tuticorin as it is only to drag on the proceedings and the suit need not be stayed till C.M.A is disposed of.

4. The learned counsel for the petitioner submitted that both the civil miscellaneous appeal in C.M.A.No.8 of 2014 as well as the Suit in O.S.No.28 of 2011 are pending before the same learned Judge, Tuticorin. Instead of filing the application under Section 10 of C.P.C., the petitioner could have asked for a joint trial since both the C.M.A as well as the Suit are pending before the very same learned Judge. Any order passed in any one of the proceedings will have a bearing on other. The petitioner submits that the out come of C.M.A will have a bearing on the suit in O.S.No.28 of 2011. Therefore, he prayed for disposal of the C.M.A first.

5. As stated earlier, both the proceedings are pending before the same learned Judge, it is open to the party to club them together for hearing. Further, having filed this revision, I am inclined to direct the Principal District Judge, Tuticorin to take up the C.M.A.No.8 of 2014 along with O.S.No.28 of 2011 and to dispose of the same on merits and in accordance with law on or before 30th April 2015. The second respondent, who filed a caveat petition has no serious objection for this arrangement.

6. With the above direction, the civil revision petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/



To

The Principal District Judge, Thoothukudi.

+1cc to Mr.M.P.Senthil, Advocate, in SR. No.6405.

+1cc to Mr.G.Ghouse Khathiri, Advocate, in SR. No.6422.

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