

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 1432 of 2011
and
M.P. No.1 of 2011

R. Shyamala

.. Petitioner

Vs

K.M. Deivasigamani

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 30.10.2010 passed in C.M.A. No.5 of 2008 on the file of Sub Judge, Vellore filed against the order dated 23.04.2008 in I.A. No. 312 of 2007 in O.S. No. 173 of 2007 on the file of the District Munsif, Vellore.

For Petitioner : Mr. M. Santhana Raman
for Mr. R. Sivakumar

For Respondent : Mr. A. Gowthaman

ORDER

This Civil Revision Petition arises against the order passed in the C.M.A. No.5 of 2008 on the file of Sub Judge, Vellore filed against the order dated 23.04.2008 in I.A. No. 312 of 2007 in O.S. No. 173 of 2007 on the file of the District Munsif, Vellore.

2. On considering the documents marked by the plaintiff and on the side of the defendants, the Lower court granted an order of interim injunction on 23.04.2008, restraining the respondent from interfering with the peaceful possession of the revision petitioner, till the disposal of the suit. Aggrieved by the said order, the respondent herein filed an appeal in C.M.A. No.5 of 2008 before the Sub Court, Vellore. The Appellate Court, by its order dated 30.10.2010, reversed the interim order of injunction and directed the trial court to dispose of the suit within a period of six months. Challenging the same, the revision petitioner has filed this petition before this Court.

3. Learned counsel for the respondent submitted that

the Appellate Court has rightly allowed the appeal, wherein it has been held that the revision petitioner/ respondent has not produced any proof to establish that she is in possession of the suit property and therefore the Revision petition is liable to be dismissed.

4. Heard Mr. M. Santhana Raman, learned counsel appearing on behalf of Mr. R. Sivakumar, learned counsel for the petitioner and Mr. A. Gowthaman, learned counsel for the respondent and perused the material on record.

5. The Revision petitioner/ plaintiff filed the suit in O.S. No. 173 of 2007 before the District Munsif, Vellore, seeking for permanent injunction and an Interlocutory Application in I.A. No. 312 of 2007 praying to grant an order of interim injunction, restraining the respondent from interfering with the peaceful possession of the suit property, pending disposal of the suit. The respondent/ defendant filed his written statement in the suit and counter affidavit in the Interlocutory Application. Both, the revision petitioner and the respondent, filed documents and

marked as exhibits before the trial court to prove their case. On perusal of the documents, the Lower Court found that the sale deed executed in favour of the revision petitioner is dated 18.11.2002, which has been produced as Exhibit A1, whereas the sale deed made in favour of the respondent is dated 14.02.2005, which is subsequent to the Revision Petitioner's sale deed and so granted an order of interim injunction in favour of the revision petitioner. Against the said order, an appeal was filed by the respondent/ defendant, in C.M.A. No. 5 of 2008 before the Sub Court, Vellore. The Lower Appellate Court set aside the order of interim injunction granted by the Trial Court, on the ground that neither the plaintiff nor the defendant were able to prove their possession over the property, by adducing any evidence. However, directed the Trial Court to dispose of the suit within a period of six months. Against the said order dated 30.10.2010, the revision petitioner has filed this revision and this Court by an order dated 20.04.2011 granted interim stay, for a limited period. At this stage, this Civil Revision is taken up for final disposal.

6. Since the suit is of the year 2007, learned counsel for the respondent, sought for a direction to the Trial court to dispose of the suit, within a stipulated period, uninfluenced by any of the observations made in the Interlocutory Application as well as the Appellate Court. Since the suit is filed for permanent injunction against the respondent/ defendant, granting of permanent injunction shall be decided only at the time of trial, by adducing necessary documents and evidences. Therefore, it is appropriate to issue a direction to the Trial court to dispose of the suit, within a reasonable time. Therefore, this Court is inclined to pass the following orders:

- a) The order dated 30.10.2010 passed in C.M.A. No.5 of 2008 on the file of Sub Judge, Vellore filed against the order dated 23.04.2008 is hereby set aside and the order passed in I.A. No. 312 of 2007 in O.S. No. 173 of 2007 on the file of the District Munsif, Vellore is restored the pending suit.
- b) Since the suit filed by the Revision petitioner is of the year 2007, the Trial Court is directed to dispose of the suit, within a period of six months from the date of receipt of a copy of this order, in accordance with law.

- c) The Civil Revision Petition is allowed, with the above said observations. No costs. Consequently, connected Miscellaneous Petition is closed.

26.04.2016

Index : Yes/ No

avr

To

The Sub Judge
Vellore.

D. KRISHNAKUMAR J.,

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