

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T. MATHIVANAN

Civil Revision Petition (PD) No.1127 of 2012 &
M.P.No.1 of 2012

S.P.Sadasivam

... Petitioner

vs

D.Senthil Raj

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 15.02.2012 passed in I.A.No.133 of 2012 in O.S.No.357 of 2006 on the file of the Principal District Munsif Court, Poonamalle.

For Petitioner : Mr.T.Murugamanickam

For Respondent : Mr.R.Devaprasad

ORDER

Challenging the fair and decretal order dated 15.02.2012 and made in the application in I.A.No.133 of 2012 in O.S.No.357 of 2006, this revision is filed by the petitioner, who is the defendant in the suit.

2. The respondent herein being the plaintiff, had filed the suit in O.S.No.357 of 2006 as against the revision petitioner seeking the relief of bare injunction. The suit was contested by the revision petitioner by filing his written statement. The trial was also commenced after filing of the proof affidavit by the respondent/plaintiff. In these circumstances, the respondent came forward with an application in I.A.No.133 of 2012 to receive 13 documents to substantiate his claim of possession. However, after hearing both sides, the learned Trial Judge had allowed the application and ordered to receive the documents as documents which were sought to be received.

3. It is significant to note that the application in I.A.No.133 of 2012 was filed under Order VII Rule 14(3) of the Code of Civil Procedure and the suit itself is being filed by the respondent seeking the relief of bare injunction. The only grievance of the revision petitioner is that since the suit itself is for the relief of bare injunction, the production of the additional documents was only an after thought and in order to substantiate his claim, the belatedly those documents were filed by the respondent and that the trial Court without approaching the issue which is involved in this case, with proper perspective, the learned trial Judge had proceeded to allow the petition in I.A.No.133 of 2012.

4. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

5. Even if those documents are received, the petitioner being the defendant in the suit will not be in any way prejudiced as the suit is going to be decided on merit, based on the possession of the respondent/plaintiff. It may be relevant to note here that having come forward with the suit for bare injunction, it is for the respondent to prove that he was in possession of the property as on the date of filing of suit. Keeping in view of this fact, this Court finds that the impugned Order is liable to be confirmed.

6. Accordingly, this Civil Revision petition is dismissed and the impugned Order in I.A.No.133 of 2012 in O.S.No.357 of 2006 is confirmed and the trial Court is directed to dispose of the suit in O.S.No.357 of 2006 as expeditiously as possible, preferably within a period of three months, from the date of receipt of a copy of this Order. There shall be no Order as to costs.

20.09.2016

Index:yes/no
Internet:yes
vrc

To
The Principal District Munsif,
Poonamallee.

T.MATHIVANAN, J.,

vrc

C.R.P.(PD) No.1127 of 2012

20.09.2016