

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.103 of 2016

&

C.M.P.Nos.609 and 610 of 2016

T.S.Rajamani

... Petitioner

vs.

1.Suguna

2.Viswanathan

...Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to call for the records in I.A.No.62 of 2016 in O.S.No.1524 of 2015 on the file of II Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.R.Subramanian

For Respondents : Mr.A.K.Muthukumarasamy,
Senior Counsel
for Mr.A.Jenasenan

ORDER

The present revision has been filed by the plaintiff in O.S.No.1524/2015 pending on the file of II Additional Subordinate Judge, Coimbatore. The respondents are defendants in the above said suit. In the said suit, which was filed for bare injunction restraining the respondents herein from interfering with petitioner's peaceful possession

and enjoyment of the suit property, an interlocutory application under Order XXXIX Rule 1 CPC was filed as I.A.No.742/2015 for interim injunction pending disposal of the suit. An order of ad-interim injunction came to be passed in the said application.

2. Thereafter, the respondents herein entered appearance and filed I.A.No.788/2015 for vacating the injunction granted in favour of the petitioner herein/plaintiff. Instead of taking up the injunction petition and the vacate injunction petition together, the learned trial Judge chose to pass an order on 11.01.2016 in the vacate injunction petition alone vacating the order of injunction. Thereafter, the respondents herein filed an application in I.A.No.62/2016 seeking police protection. Though the learned trial Judge chose to dismiss the said application seeking police protection, the learned trial Judge chose to incorporate a direction in the order to send a copy of the order passed in the other interlocutory application (I.A.No.788/2015) vacating the interim injunction to the Commissioner of Police without spelling out the purpose for which the same was directed to be sent to the Commissioner of Police, Coimbatore. It is as against the said order, the present civil revision petition has been filed by the plaintiff in the above said suit contending that, while dismissing the application seeking police protection on the one hand, the learned trial Judge, indirectly paved the way for such police protection by directing an order vacating the interim injunction to be sent to the Commissioner of Police, Coimbatore City.

3. The respondents have entered appearance through counsel. Mr.A.K.Muthukumarasamy, learned senior counsel representing Mr.A.Jenasenan, learned counsel on record for the respondents 1 and 2 submits that the respondents have been advised to withdraw the interlocutory application seeking police protection, namely I.A.No.62/2016 itself, so as to enable the court to set aside the order passed by the trial court in the said application in its entirety including the direction to mark a copy of the order vacating injunction in the other application to the Commissioner of Police. The counsel on record for the respondents 1 and 2 has also made an endorsement to that effect.

4. The endorsement is recorded. In view of the endorsement, the civil revision petition is allowed and the order of the trial court dated 12.01.2016 made in I.A.No.62 of 2016 in I.A.No.788 of 2015 in O.S.No.1524 of 2015 is set aside in its entirety and in its place, this court passed an order dismissing the said application as withdrawn. However, there shall be no order as to cost. Consequently, the connected civil miscellaneous petitions are closed.

5. As requested by the learned senior counsel for the respondents, which request has also been conceded by the learned counsel for the petitioner with a rider regarding the court in which the trial is to be

conducted, this court hereby withdraws O.S.No.1524/2015 from the file of the II Additional Subordinate Judge, Coimbatore and transfers it to the file of the Principal Subordinate Judge, Coimbatore, for disposal according to law. Since the records have been sent for from the II Additional Subordinate Judge, Coimbatore, they are directed to be sent to the Court of Principal Subordinate Judge, Coimbatore, who shall dispose of the suit in accordance with law. The Principal Subordinate Judge, Coimbatore shall make an endeavour to dispose of the suit as expeditiously as possible, in any event, not later than four months from the date of receipt of a copy of this order and the records in the original suit.

10.03.2016

Index : Yes/No
Internet : Yes
asr

To

The II Additional Subordinate Judge, Coimbatore

Note:

Issue order copy on or
before 15.03.2016

P.R.SHIVAKUMAR, J.

asr/-

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