

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1438 of 2016
and
C.M.P.No.7878 of 2016

A.Chikkannan
S/o.Aruva Chettiar

... Petitioner

vs

A.Shanmugam
S/o.Aruva Chettiar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 04.09.2015 passed in C.M.A.No.40 of 2013 on the file of Camp Subordinate Judge, Mettupalayam (III Additional Subordinate Judge, Coimbatore), in confirming the order dated 16.04.2013 passed in I.A.No.660 of 2011 in O.S.No.262 of 2011 on the file of District Munsif Court cum Judicial Magistrate, Mettupalayam.

For Petitioner : Mr.J.Pothiraj

ORDER

This revision challenges the order of learned Camp Subordinate Judge, Mettupalayam (III Additional Subordinate Judge, Coimbatore), passed in C.M.A.No.40 of 2013 on 04.09.2015 confirming the order of learned District Munsif cum Judicial Magistrate, Mettupalayam, passed in I.A.No.660 of 2011 in O.S.No.262 of 2011 on 16.04.2013.

2. Respondent preferred O.S.No.262 of 2011 on the file of learned District Munsif, Mettupalayam, seeking permanent injunction restraining the defendant and his men from interfering with the peaceful possession and enjoyment of the plaint schedule properties. Therein, he had moved I.A.No.660 of 2011 seeking relief of temporary injunction. On such petition being allowed, the petitioner/defendant moved C.M.A.No.40 of 2013 on the file of learned Camp Subordinate Judge, Mettupalayam, which stands dismissed under order dated 04.09.2015. Hence, this revision.

3. Heard learned counsel for petitioner.

4. Learned counsel for petitioner/defendant submitted that the petitioner/defendant held a decree of permanent injunction in respect of the suit property, the same having been granted in O.S.No.813 of 1995 under judgment dated 14.02.1997. Learned counsel also submitted that the respondent having moved a further action in 2002, had abandoned the same. In the circumstances, the Courts below are wrong in finding the balance of convenience in favour of the respondent/plaintiff.

5. In dismissing the C.M.A.No.40 of 2013, the Court below has taken note of the contention of the respondent/plaintiff that subsequent to the decree obtained by the petitioner/defendant in O.S.No.813 of 1995, there was a mediation by village elders wherein the matter stood settled on payment of Rs.1,00,000/- by respondent/plaintiff. Though the respondent/plaintiff had abandoned his suit of 2002, the revenue records produced by him reflected his current possession of the property. In the circumstances, the Court below held in favour of the respondent/plaintiff and dismissed the appeal. This Court finds no reason to interfere with the order under challenge.

The Civil Revision Petition is dismissed. However, taking note of the contention of learned counsel for petitioner that the suit is of the year 2011 and is at the stage of trial, this Court directs learned District Munsif,

Mettupalayam, to dispose of the suit in O.S.No.262 of 2011, as expeditiously as possible, preferably within a period of six months from the date of receipt of this order. No costs. Consequently, connected miscellaneous petition is closed.

03.06.2016

Index:yes/no
Internet:yes
gm

To

The Camp Subordinate Judge,
Mettupalayam.

C.T.SELVAM, J

gm

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