

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) Nos.1781 and 1782 of 2016
and CMP Nos.9380 & 9381 of 2016

R.Jeyalakshmi

... Petitioner in both CRPs.

vs

1.M.Pavithra

2.Duraikannu

3.Deenan

4.Thilagavathi

5.Elumalai

6.Sadaiappan

7.Maharani

8.S.Rajesh

9.R.Lakshmi Narasimhan

10.The Sub Registrar,

Thiruporur Sub Registrar Office.

11.The District Collector,

Kancheepuram District.

.. Respondents in both CRPs.

Civil Revision Petitions filed under Article 227 of the Constitution of India praying to set aside the order and decreetal order dated 18.05.2016 in I.A.Nos.554 and 555 of 2016 in O.S.No.78 of 2016 on the file of the District Munsif Court, Chengalpattu renumbered as I.A.Nos.698 and 699 of 2016 in O.S.No.85 of 2016 on the file of District Munsif Court, Chengalpattu.

For Petitioner : Mr.S.Silambanan Senior Counsel
for M/s.Kaavya Silambanan

For 1st Respondent : Mr.R.MUthukumaraswamy Senior Counsel for
Mr.E.Manoharan

For 9th Respondent : Mr.Shiva Shanmugam

For 8th Respondent : Mr.V.Rajesh

COMMON ORDER

These revisions challenge the orders of learned District Munsif, Chengalpattu, passed in I.A.Nos.554 and 555 of 2016 in O.S.No.78 of 2016 on 18.05.2016.

2. Heard learned counsel for petitioner.

3. The 1st respondent/plaintiff has preferred O.S.No.78 of 2016 subsequently renumbered as O.S.No.85 of 2016 on the file of learned District Munsif, Chengalpattu, seeking declaration and permanent injunction. Therein, she has moved I.A.No.554 of 2016 seeking interim injunction against defendants not to disturb the plaintiff's peaceful possession and enjoyment of the suit property by way of any construction and I.A.No.555 of 2016 seeking interim injunction against respondent alienating the suit property. In passing the exparte interim orders in favour of the plaintiff, the Court below has stated as follows:

I.A.No.554 of 2016 in O.S.No.78 of 2016

Herein proceeding perusal the document Nos.1,3,4,5 & 14 show that the petitioner is the owner of the property prima facie made out. Balance of convenience is in favour of the petitioner, if the injunction is not granted they will be irresponsible loss to the petitioner. Hence Ad-interim injunction granted against the respondent not to disturb the plaintiff's peaceful possession and enjoyment of suit property by way of any construction (on/any other activities till) 15.06.2016 Order 39 Rule (3) CPC should be strictly complied with notice to respondent exp. Hence P.N. also permitted.

I.A.No.555 of 2016 in O.S.No.78 of 2016

Herein proceeding perusal the document Nos.1,3,4,5 & 14 show that the petitioner is the owner of the property prima facie made out. Balance of convenience is in favour of the petitioner, if the injunction is not granted they will be irresponsible loss to the petitioner. Hence Ad-interim injunction granted against the respondent not to alienate (or) encumbrance the suit property herself (or) her reject and means till) 15.06.2016 Or.39 Rule 3(CPC) should be strictly complied with issue notice to respondent exp. Hence P.N.also permitted.

Order 39 Rule 3 CPC reads as follows:

The Court shall in all cases, except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice of

the application for the same to be given to the opposite party.

Rest of the Section (Otiosu)

4. This Court is of the opinion that the orders under challenge do not satisfy the requirements under Or.39 R.3 CPC. Merely informing that balance of convenience is in favour of the plaintiff and if injunction is not granted, she would be put to irreparable loss etc., does not amount to informing reasons for passing the orders under challenge.

5. The Civil Revision Petition is allowed. The orders in I.A.Nos.554 and 555 of 2016 in O.S.No.78 of 2016 passed by learned District Munsif Court, Chengalpattu, on 18.05.2016, are set aside. The Court below is directed to take the same on file, issue notice to respondents, hear the parties on merits and pass appropriate reasoned orders. This Court would direct learned District Munsif, Chengalpattu, to dispose of O.S.No.85 of 2016 as expeditiously as possible, preferably, within a period of six weeks from the date of receipt of this order. No costs. Consequently, connected miscellaneous petition is also closed.

18.07.2016

Index:yes/no
Internet:yes

kkd

C.T.SELVAM, J

kkd

To

The District Munsif Court,
Chengalpattu.

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