

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

CRP (PD) NO.263 OF 2016
AND CMP NO.1247 OF 2016

Gunasekaran

... Petitioner

Versus

1.Saroja
2.Natarajan

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the learned Subordinate Judge, Nagapattinam dated 05.10.2012 made in C.M.A.No.8 of 2012 in confirming the order and decretal order of the learned District Munsif, Nagapattinam, dated 06.03.2012 made in I.A.No.656 of 2011 in O.S.No.200 of 2011.

For Petitioner : Ms.G.Sumitra
for Mr.M.Govindaraju

For Respondents : Mr.A.S.Balaji

ORDER

The respondents filed a suit for permanent injunction against the petitioner in O.S.No.200 of 2011, on the file of District Munsif Court, Nagapattinam.

2. The respondents also filed an application in I.A.No.656 of 2011 and obtained temporary injunction during the currency of the suit. The said order was unsuccessfully challenged before the First Appellate Court in C.M.A.No.8 of 2012.

3. The present Civil Revision Petition is directed against the judgment dated 05.10.2012 in C.M.A.No.8 of 2012.

4. The learned counsel for the petitioner contended that the petitioner was put in possession of the property in question pursuant to an agreement and as such, the Trial Court was not correct in granting injunction in favour of the respondents.

5. The learned counsel for the respondents supported the

judgment in C.M.A.No.8 of 2012.

6. The respondents filed the suit for permanent injunction. In the said suit, the respondents filed an application for temporary injunction. The Trial Court having satisfied about the trinity test, granted temporary injunction in favour of the respondents. The First Appellate Court concurred with the views expressed by the Trial Court and confirmed the order in I.A.No.656 of 2011. There is no question of upsetting the judgment in C.M.A.No.8 of 2012 which was in the nature of an order confirming the order passed by the learned District Munsif, Nagapattinam, on the basis of *prima facie* materials. I am therefore of the view that no interference is called for in the judgment in appeal.

7. The learned counsel for the petitioner has taken up a contention that in case the observation contained in the judgment dated 05.10.2012 is allowed to stand, it would cause prejudice to the case of the petitioner during trial.

8. The learned District Munsif, Nagapattinam is directed to dispose of the suit in O.S.No.200 of 2011 on merits and as per law, without taking into account the observation contained in the order

dated 06.03.2012 in I.A.No.656 of 2011 and the judgment dated 05.10.2012 in C.M.A.No.8 of 2012 on the file of Subordinate Court, Nagapattinam.

9. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected civil miscellaneous petition is closed.

14.11.2016

TK

To

- 1.The Subordinate Judge,
Nagapattinam.
- 2.The District Munsif Judge,
Nagapattinam.

K.K.SASIDHARAN, J.

TK

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