

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.273 of 2016

and

C.M.P.No.1282 of 2016

1.Periyannan @ Kannupaiyan
2.Sri Ram
3.Arumugam
4.Allimuthu
5.Raja
6.Kuppan
7.Chinnakuppan
8.Chinnapaiyan

... Petitioners

vs.

1.Pachiyappan
2.Natarajan
3.Rajaganapathy
4.Maalathi
Periyannan (died)

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order of the Principal Subordinate Judge, Salem dated 06.01.2015 passed in C.M.A.No.17 of 2012 confirming the order of the First Additional District Munsif, Salem dated 16.03.2012 made in I.A.No.280/2012 in O.S.No.130/2012.

For Petitioner : Mr.R.Marudhchalamurthy

ORDER

The defendants 1 to 7 and 9 in the original suit are the petitioners in the civil revision petition. Respondent Nos.1 to 4 herein filed the original suit O.S.No.130/2012 on the file of the trial court for a permanent injunction regarding the suit property. Pending disposal of the

suit, they prayed for an interim injunction by filing an interlocutory application in I.A.No.280/2012. After contest, the said application came to be allowed by the learned trial Judge by order dated 16.03.2012. Aggrieved by the same and challenging the said order, the petitioners in the revision petition, preferred an appeal before the lower appellate court, namely the Court of the Principal Subordinate Judge, Salem in C.M.A.No.17 of 2012. The learned lower appellate judge, after hearing, by a judgment dated 06.01.2015 dismissed the said civil miscellaneous appeal confirming the order passed by the trial court granting interim injunction pending disposal of the original suit against the revision petitioners herein and the 8th defendant, not to disturb their possession and enjoyment of the suit properties.

2. The trial court, upon appreciation of the materials placed before it to find out whether the respondents 1 to 4 herein/plaintiffs did have a *prima facie* case and in whose favour the balance of convenience would lie, answered both in favour of the respondents 1 to 4 herein/plaintiffs and accordingly passed the order dated 16.03.2012 in I.A.No.280/2012 granting an interim injunction pending disposal of the suit. On appeal, the learned lower appellate judge, on re-appreciation of the materials for the limited purpose of finding out the existence of *prima facie* case and the party on whose favour the balance of convenience lies, has come to the very same conclusion. As against such concurrent findings of the courts below, the present revision came to be filed.

3. The power of superintendence under Article 227 of the Constitution of India is not intended to be used as an appellate power. It is mainly intended to keep the courts subordinate to the High Court within their limits in exercise of jurisdiction and to make the courts to exercise jurisdiction in case of refusal to exercise jurisdiction. It can also be used for correcting the errors apparent on the face of the record and also to curb the abuse of process of court. None of the grounds mentioned above, is available to the petitioners in the present revision. This court does not find any scope for interfering with the judgment of the lower appellate court confirming the order of the trial court granting interim injunction, pending disposal of the suit. Hence the civil revision petition deserves to be dismissed at the threshold.

Accordingly, the civil revision petition is dismissed. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

05.02.2016

asr

To

- 1.The Principal Subordinate Judge, Salem
- 2.The First Additional District Munsif, Salem

P.R.SHIVAKUMAR, J.

asr/-

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