

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2016

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

C.R.P.No. 2755 of 2016

And

C.M.P.No.14128 of 2016

1. K.Rajasekaran
2. R.V.Dinesh Kumar ... Petitioners/Respondents/Defendants

Versus

N.Renuga ... Respondent/Petitioner/Plaintiff

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the impugned order dated 22.08.2016 in I.A.No. 10907 of 2016 in O.S.No. 4358 of 2016 on the file of II Assistant City Civil Court, Chennai.

For Petitioners : Mr. D.Ravichander

For Respondent : Mr.T.Velumani

O R D E R

The respondent filed a suit in O.S.No. 4358 of 2016 before II Assistant City Civil Court, Chennai, praying for a decree of injunction. The learned Judge

granted injunction by order dated 22.08.2016. The petitioners without filing an application to vacate the interim order, filed this Civil Revision Petition, invoking jurisdiction under Article 227 of the Constitution of India.

2. The learned counsel for the petitioners contended that the petitioners earlier filed a suit in O.S.No. 3743 of 2016, before VI Assistant City Civil Court, Chennai and obtained an interim injunction, by order dated 20.07.2016. The husband of the respondent was a party to the said suit. The respondent, with an idea to get over the order passed by the trial Court, filed a fresh suit in O.S.No. 3743 of 2016, and obtained an order of interim injunction. According to the learned counsel, the trial Court was not correct in granting the interim prayer for injunction during the currency of another order of injunction in O.S.No. 3743 of 2016 .

3. The learned counsel for the respondent on the other hand submitted that the respondent has been a tenant under the petitioners. The petitioners made an attempt to evict her without resorting to procedure under law and as such, the respondent filed rightly the suit for injunction. The learned counsel submitted that there is an alternative remedy available to the petitioners and as such, they should approach the trial Court.

4. The petitioners filed a suit in O.S.No. 3743 of 2016 and obtained an order of injunction. The respondent was not a party to the civil suit. The respondent thereafter filed a suit in O.S.No. 4356 of 2016 and obtained an order of injunction. The respondent has produced documents in support of her contention that she has been in possession of the property in question. The respondent has also produced the license issued by the Corporation of Chennai, permitting her to conduct a tea shop.

5. The petitioners without approaching the trial Court, with an application to vacate the interim injunction, rushed to this Court with a petition under Article 227 of the Constitution of India. The fact that the petitioners have obtained an order of interim injunction from a different Court would not stand in the way of the respondent from filing a suit for injunction and obtaining an order of injunction, if she is in a position to prove her legal possession. The respondent has demonstrated *prima facie* that she has been in possession and enjoyment of the property in question.

6. The proper remedy available to the petitioners is to approach the trial Court. It is for the trial Court to decide as to whether injunction should be

vacated or it should be made absolute during the currency of the suit. When there is an alternative remedy, the petitioners are not entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India. I am therefore of the view that the petitioners should approach the trial Court. In case any such application is filed to vacate the interim order, the trial Court shall dispose of it of on merits without reference to this Court.

7. The Civil Revision Petition is disposed of with the above direction. The interim order already granted shall stand vacated. No costs. Consequently, connected Miscellaneous Petition is closed.

27.09.2016

vsg

To

II Assistant City Civil Court, Chennai.

K.K.SASIDHARAN. J.

vsg

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