

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.09.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3065 of 2016 and
CMP.No.15556 of 2016

1.S.Santhi
2.Saravanan

...Petitioners

versus

B.Jaishanthi

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the docket order dated 18.05.2016 passed in I.A.No.585 of 2016 in O.S.No.174 of 2014 on the file of Sub-Court, Tambaram.

For Petitioners : Mr.S.Sadasharam

ORDER

The respondent filed a petition against the petitioners before the Sub-Court, Tambaram with a prayer to punish them on account of the alleged violation of the interim order granted by the Court. The Trial Court issued notice to the petitioners. The said notice is under challenge in this civil revision petition.

2. The learned counsel for the petitioners submitted that the Trial Court closed the injunction petition on 20.04.2016. There was no interim order thereafter. The respondent alleged that the petitioners trespassed into the property and put up construction. Even as per the affidavit filed in support of the application in I.A.No.585 of 2016, alleged construction was made only after the closure of the application filed by the respondent for injunction. The learned Trial Judge was therefore not correct in issuing notice to the petitioners.

3. The Trial Court appears to have closed the injunction application on 20.04.2016. The respondent filed an application to take action against the petitioners herein on the ground that they have violated the injunction passed by the Court. The learned Judge issued only notice to the petitioners.

4. The proper course open to the petitioners is to submit a counter affidavit before the Trial Court pointing out the earlier order dated 20.04.2016 closing the application. The present proceeding is premature in nature. It is not as if the learned Trial Judge would not peruse the counter affidavit filed by the petitioners and that they should

be punished without considering their case. I am therefore of the view that the petitioners should approach the Trial Court.

5. The petitioners are given liberty to file counter affidavit in I.A.No.585 of 2016. The learned Trial Judge is directed to consider the explanation and thereafter pass an order on merits and as per law.

6. The Civil Revision Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2016

Index:Yes/No
svki

To
The Sub-Court, Tambaram

K.K.SASIDHARAN, J.
(svki)

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