

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **21.10.2016**

CORAM:

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

C.R.P.(P.D.) No.3109/2016

D.Gregoriammal : Petitioner
versus

1.P.Jayapakash
2.S.Karthikeyan : Respondents

PRAYER: Revision filed against the order dated 31.8.2016 in I.A.No.804 of 2016 in O.S.No.977 of 2016 on the file of the Subordinate Judge, Coimbatore.

For petitioner : Mr.B.Ravi

For respondents : Ms.P.T.Asha
for M/s.D.Gopal

ORDER

This civil revision petition is directed against the order dated 31 August 2016 whereby and whereunder the learned Subordinate Judge, Coimbatore, granted an interlocutory order of injunction in I.A.No.804 of 2016 in O.S.No.977 of 2016 injunction the petitioner from interfering with the peaceful possession and enjoyment of the schedule property by the respondents.

2. Since the learned Trial Court failed to supplement reasons in support of the interim order, I have suspended the interim order of injunction. The order dated 29 September 2016 reads as follows :-

“The petitioner earlier filed a suit in O.S.No.903 of 1997 before the Subordinate Court, Coimbatore, praying for the relief of declaration and consequential injunction in respect of the plaint ' A' schedule property. In the said suit, this Court passed an order dated 21 December 1998 in CRP.No.3003 of 1998 directing the parties to maintain status quo. The predecessor-in-interest of the respondents was a party to the said suit. Thereafter, the Lok Adalath passed an award on 2 January 2008. The predecessor-in-interest of the respondents, subsequently sold the property to the respondents.

2. The petitioner on information that the suit property which is the subject matter of the suit in O.S.No.903 of 1997 was sold in favour of the respondents, filed a suit in O.S.No.154 of 2016 before the District Court, Coimbatore for a decree of declaration declaring that the Settlement Deed dated 11.11.2011 and the Sale Deeds dated 19.10.2015 & 27.01.2016 are null and void and not binding on her. The suit is now pending.

3. While so, the respondents filed a suit in O.S.No.977 of 2016 against the petitioner praying for a decree of permanent injunction. In the said suit, the respondents have filed an Interlocutory application in I.A.No.804 of 2016 for the relief of interim injunction. The learned Trial Judge granted an interim injunction without referring to the earlier proceedings. Feeling aggrieved, the petitioner has come up with this Civil Revision

Petition.

4. *The learned counsel for the petitioner by placing reliance on the order passed by this Court dated 21.12.1998 in CRP.No.3003 of 1998, the Lok Adalat award dated 02.01.2008 and the observation made by this Court in the order dated 09.01.2015 in Crl.OP.No.32714 of 2014 contended that the respondents abused the process of Court and filed the suit for injunction. The learned counsel further contended that the learned Trial Judge without verifying the earlier proceedings, mechanically passed an order of injunction. The petitioner therefore, filed this Civil Revision Petition without availing the alternative remedy.*

5. *The documents available on record clearly indicates that with respect to the property, which is the subject matter of this litigation, this Court has already passed an order to maintain status quo. The order of status quo passed by this Court is binding not only on the petitioner but also on the predecessor-in-interest of the respondents, in view of the nature of litigation.*

6. *When an application is filed for interlocutory application, the trial Judge was expected to consider as to whether the petitioner has satisfied the trinity test. The petitioner, in his application, must prove that he has got a prima facie case and that balance of convenience is in favour for granting injunction. He should also plead and prove that in case injunction is declined, he would be put to loss. The order passed by the trial*

Judge must speak itself.

7. *The learned trial Judge in the subject case, just referred to the documents and without any reasoning, passed an order of injunction as a matter of course. The learned Judge has recorded that the documents would prove the case of the plaintiff. It is not clear as to how the learned trial Judge has arrived at a finding that the documents would support the case of the petitioners who are the respondents in this civil revision petition.*

8. *Since the learned trial Judge without indicating any reasons, much less justifiable reasons, granted an interim order, I am of the view that the petitioners were justified in filing this civil revision petition without approaching the trial court to vacate the interim order. I am also prima facie of the view that this is a fit case to exercise the supervisory jurisdiction under Article 227 of the Constitution of India.*

9. *The order dated 31 August 2016 is bereft of details or reasoning. I am therefore of the view that the petitioners have made out a case for suspension of the order of injunction.*

10. *There shall be an order of interim suspension of the interlocutory order of injunction passed by the learned Trial Judge, in I.A.No.804 of 1996 in O.S.No.977 of 2016, until further orders.*

11. *Notice to the respondents returnable by 21.10.2016. Private notice is also permitted.*

12. *Post on 21 October 2016.”*

3. Subsequently, respondents entered appearance through counsel.

4. I have heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

5. This Court entertained the civil revision petition notwithstanding the alternative remedy available to the petitioner on the ground that the Trial Court has not supplemented any reason much less justifiable reason for granting an order of interim injunction. The Trial Court simply made a mention that the petitioners in I.A.No.804/2016 have produced documents and that he was satisfied about the prima facie case, balance of convenience and irreparable injury that would be caused to the petitioners therein in case interim injunction was not given. Since there was no discussion with regard to the prima facie case and other parameters laid down by the Courts for granting an order of ex parte interim injunction, the interim order was suspended.

6. The petitioner is yet to file counter affidavit in I.A.No.804 of 2016. This Court has not considered the entire merits of the matter. Interim order of suspension was granted only on account of the failure on the part of the learned trial Judge to indicate justifiable reasons in the order dated 31 August 2016. The interim order of suspension of injunction is still in force. I

am therefore of the view that the said position should continue till a decision is taken by the learned trial Judge afresh in I.A.No.804 of 2016.

7. In the result, the order dated 31 August 2016 is set aside. The application in I.A.No.804 of 2016 is restored to file. The petitioner is given time till 21 November 2016 to file counter in I.A.No.804 of 2016.

8. The learned counsel for the parties jointly submitted that four other suits in O.S.Nos.2372 of 1996, 903 of 1997, 1681 of 1998 and 2159 of 1998, are pending before the I Additional Sub Court, Coimbatore. According to them, it would be in the interest of both the parties to transfer the suit in O.S.No.977 of 2016, to the I Additional Sub Court, for trial, along with O.S.Nos.2372 of 1996, 903 of 1997, 1681 of 1998 and 2159 of 1998.

9. In view of the request made by both the parties, the suit in O.S.No.977 of 2016 is withdrawn from the file of Subordinate Court, Coimbatore and is transferred to the file of I Additional Sub Court, Coimbatore. In view of the transfer of proceedings, I.A.No.804 of 2016 in O.S.No.977 of 2016 shall be heard by the I Additional Subordinate Judge, Coimbatore.

10. The learned I Additional Subordinate Judge, Coimbatore, is directed to consider the application in I.A.No.804 of 2016, on merits and as

per law, and pass a speaking order on or before 9 December 2016 without in any way being influenced by the observations contained in the order dated 29 September 2016.

11. The civil revision petition is disposed of as indicated above. No costs. Consequently, C.M.P.No.15812 of 2016 is closed.

21.10.2016

Index:Yes/no
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Office to note:
Issue by 25.10.2016

To

- (i) The Subordinate Judge, Coimbatore
- (ii) The I Additional Subordinate Judge, Coimbatore

K.K.SASIDHARAN, J.

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