

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.599 of 2016

Selvi

... Petitioner

Vs

1. Madhaiyan
Chandra (deceased)
2. Ramesh
3. Shyamala
4. Balu
5. Kumaresan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to allow this revision petition and set aside the order and decretal order dated 11.12.2015 made in I.A.No.1220 of 2015 in O.S.No.139 of 2014 on the file of District Munsif cum Judicial Magistrate Court, Pappireddipatti.

For Petitioner : Mr.R.Neelakandan

ORDER

The plaintiff in the original suit O.S.No.139 of 2014 on the file of the District Munsif-cum-Judicial Magistrate, Pappireddipatti, is the petitioner in the present revision.

2. Along with the plaint, he filed an application I.A.No.519 of 2014 for interim injunction. The plaintiff and the defendants are owners of adjacent lands. The defendants claim that there exists a cart track on the Northern part of the property owned by the plaintiff, whereas the plaintiff wants to annexe the cart track with her property, denying and disputing the right of cart track claimed by the defendants.

3. The learned trial Judge in the said application, after hearing, held that there was a prima facie case in favour of the defendants in respect of the alleged cart track that runs on the northern part of the suit property. Though the defendants did not raise any objection for the plaintiff's enjoyment of the rest of the property and no attempt to prevent the plaintiff from enjoying the rest of the property was made by the defendants even as per the plaint averments, the trial Court chose to grant an interim injunction in respect of the suit property barring the northern portion over which the defendants claim cart track right.

4. The actual fact in issue is whether there exists a cart-track or the defendants are trying to form a cart track on the northern part

of the suit property. When that is so, taking advantage of the limited interim injunction, the plaintiff, who is the petitioner in the revision, seems to have approached the trial Court with I.A.No.1220 of 2015 seeking police protection on the premise that she was not even allowed to plough her land, regarding which injunction was granted.

5. The learned trial Court, after hearing both sides, on a clear understanding of the nature of the order, the nature of the averment made by the petitioner and the averments made by the respondents, came to the conclusion that the petition seeking police protection was filed with ulterior motive to implicate the defendants in a criminal case and thereafter gain advantage in the suit.

6. The said finding of the trial Court cannot be said to be either defective or infirm. Furthermore, when an injunction not to disturb the enjoyment of a property is granted, the person in whose favour the order has been granted can approach the very same Court with a petition under Order XXXIX Rule 2A of the code of Civil Civil Procedure if a person against whom such an order of injunction was granted, violates that order. In case, such a petition is filed and proved that such an act of disobedience has been committed by the other

party, then besides punishing the violator, the Court may even consider the feasibility of giving police protection. In the case on hand, before ever the contention of the petitioner is substantiated, the petitioner wants police protection by filing the above said application I.A.No.1220 of 2015. Furthermore, a posse of police cannot be stationed to give protection to the petitioner to enjoy her property. All these aspects were taken into consideration by the trial Court and the trial Court has come to a correct conclusion that the prayer for police protection cannot be granted. This Court does not find any defect or infirmity in the same. The revision does not even merit admission and the same deserves to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

02.03.2016

Index: Yes/No

Internet: yes/No

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To

The District Munsif-cum-Judicial Magistrate Court,
Pappireddipatti.

P.R.SHIVAKUMAR, J

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