

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **10.11.2016**

CORAM:

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

C.R.P.(P.D.) No.607 of 2016 and
CMP.No.3224 of 2016

R.Lingan

...Petitioner

versus

1. M.Manonmani
2. The Commissioner
Udhagamandalam Municipality
Udhagamandalam
The Nilgiris

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 24.08.2015 passed in C.M.A.No.7 of 2013 on the file of the Subordinate Judge and the appellate court of the Nilgiris at Udhagamandalam, confirming the order and decreetal order in I.A.No.198 of 2013 in O.S.No.226 of 2008 on the file of the District Munsif Court at Udhagamandalam.

For Petitioner : Mr.P.Ravi Shankar Rao

For respondents : Mr.S.Kingston Jerold for R1
Mr.P.Srinivas for R2

ORDER

The first respondent filed a suit in O.S.No.226 of 2008 against the petitioner and the second respondent, praying for a decree of permanent injunction, to restrain from resting beam into the already existing beam or putting up any illegal/unauthorized construction. The suit was resisted by the petitioner by filing written statement.

2. The first respondent filed an application in I.A.No.660 of 2008 for injunction. The trial court granted injunction in the interlocutory application. The order was confirmed and the application was closed subsequently with an understanding that the matter would be taken up for trial. Thereafter, the first respondent filed a fresh application in I.A.No.198 of 2013 for injunction. The application was allowed by the trial court. The order was unsuccessfully challenged in C.M.A.No.7 of 2013. Feeling aggrieved, the first respondent has come up with this Civil Revision Petition.

3. The learned counsel for the petitioner contended that in view of the order in I.A.No.660 of 2008, the trial court was not correct in entertaining the second application. According to the learned counsel,

the application in I.A.No.660 of 2008 was closed with an understanding that the suit is ripe for trial and the same would be disposed of as expeditiously as possible. Such being the factual position, the trial court was not correct in entertaining the second application for injunction.

4. The learned counsel for the first respondent justified the impugned order. According to the learned counsel, subsequent to the disposal of the application in I.A.No.660 of 2008, the petitioner resumed the construction and that was the reason for filing another application in I.A.No.198 of 2013.

5. The suit in O.S.No.226 of 2008 was filed by the first respondent for injunction. The trial court initially granted injunction in I.A.No.660 of 2008. Subsequently, by way of order in I.A.No.198 of 2013, the petitioner was restrained from putting up further construction. According to the first respondent, construction is unauthorized and there was no sanctioned plan obtained by the petitioner.

6. The suit is now ripe for trial. There is no question of interfering with the interlocutory order passed by the trial court at this point of time. I am therefore of the view that the parties must cooperate for an

early disposal of the Civil Suit.

7. The suit is stated to be posted for trial on 21.11.2016. The first respondent is directed to appear before the court on the next date of hearing for the purpose of recording evidence. The trial court is directed not to give unnecessary adjournment either to the petitioner or to the respondents. The Original Suit shall be disposed of as expeditiously as possible and in any case on or before **31st March 2017**, on merits and as per law. I also make it clear that while deciding the suit, the trial court shall not be influenced by the orders passed in I.A.No.660 of 2008 and I.A.No.198 of 2013 or the judgment in C.M.A.No.7 of 2013.

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

10.11.2016

Index:Yes/No
ajr

To

1. Subordinate Judge, Udthagamandalam, Nilgiris district
2. The District Munsif Court, Udthagamandalam.

K.K.SASIDHARAN, J.

ajr

C.R.P.(P.D.) No.607 of 2016

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