

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.648 of 2016

1.Dhanusu

2.Ravi

3.Vijayakumar

... Petitioners

Vs.

1.Vijaya

2.Block Development Officer
Kandamangalam

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to direct the Principal District Munsif, Villupuram to expeditiously dispose of the I.A.No.892 of 2014 in O.S.No.369 of 2013 on merits by a date to be fixed by this Court.

For Petitioners : Mr.K.Chandrasekaran

ORDER

Heard Mr.K.Chandrasekaran, learned counsel for the petitioners.

2. This Civil Revision Petition has been filed under Article 227 of the Constitution of India seeking expeditious disposal of I.A.No.892 of 2014 in O.S.No.369 of 2013 on the file of the trial Court, namely the Court of Principal District Munsif, Villupuram. Since the prayer made in the Civil Revision Petition is only for a direction to dispose of I.A.No.892 of 2014 expeditiously and the respondents have not filed their counter in I.A.No.892 of 2014, this Court deems it appropriate to pass an order even without notice to the respondents.

3. The contention of the petitioner is that the petition has been kept pending unnecessarily for about one year and four months, without passing any order, due to the failure on the part of the respondents to file a counter statement in the said application. The revision petitioners have filed the above said suit for permanent injunction restraining the defendants from converting the property lying on the north of the suit properties into a passage (ghij) and for cost. The petitioners were granted an ad-interim injunction by the trial Court in I.A.No.1011 of 2013. Before the filing of the said Interlocutory Application, namely I.A.No.892 of 2014, the first petitioner wanted to enclose the disputed portion, which is claimed by

the respondents to be a passage, for which he sought an order from this Court seeking police protection by filing CrI.O.P.No.31365 of 2013. A learned single Judge of this Court, by order dated 12.08.2014, dismissed the said petition. Thereafter, the petitioners chose to file I.A.No.892 of 2014 seeking permission to put up a compound wall enclosing the disputed portion. In effect, what the petitioners had sought for is the grant of the relief sought for in the suit in the interlocutory application itself. The various attempts made by the petitioners proved to be ineffective and at last, the petitioners have come forward with the present Civil Revision Petition to get an order for the early disposal of the above said interlocutory application with a view to use it to get an order sought for in the said interlocutory application. The very attitude shown by the petitioners may show their attempt at abuse of process. If at all this Court grants any order in this Civil Revision Petition, that may be sought to be projected as a ground for seeking an order favourable to the petitioners in the said interlocutory application. Therefore, this Court is not inclined to use the power of superintendence under Article 227 of the Constitution of India.

4. But, the way in which the trial Court has chosen to go on

adjourning the interlocutory application will warrant a direction to the trial Court to dispose of the interlocutory application within four weeks from the date of receipt of a copy of this order. While granting such a direction, this Court cautions the Court below that this order should not be taken as expressing any opinion to the effect that the petitioners are entitled to the order sought for in the interlocutory application. The Court below shall take into consideration whether it is feasible and shall be in the interest of justice to grant an order which shall have the effect of granting the relief sought for in the suit itself.

The Civil Revision Petition is disposed of directing the trial Court to dispose of I.A.No.892 of 2014 within a period of four weeks from the date of receipt of a copy of this order, taking into consideration the observations appearing supra. No costs.

02.03.2016

Index: Yes/No
Internet: yes/No
gpa

To

The Principal District Munsif
Villupuram

P.R.SHIVAKUMAR.J.,

gpa

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