



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2016

CORAM:

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THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (PD) (MD) .No.2580 of 2016

Ramanathan

: Petitioner/plaintiff

Vs.

- 1.The District Engineer,
Tamil Nadu Electricity Board,
Pattukottai Taluk,
Thanjavur District.
- 2.The Assistant Engineer,
Tamil Nadu Electricity Board,
Pattukottai,
Thanjavur District.
- 3.The Assistant Executive Engineer,
Tamil Nadu Electricity Board,
Madukkur
Pattukottai Taluk,
Thanjavur District.
- 4.The District Registrar,
Madukkur
Pattukottai,
Thanjavur District.
- 5.The Sub Registrar,
Madukkur
Pattukottai,
Thanjavur District.
- 6.The Tahsildar,
Pattukottai,
Thanjavur District.
- 7.The Village Administrative Officer,
Mohoor,
Pattukottai,
Thanjavur District.



8.The Sub-Inspector of Police,
Madukkur
Pattukottai,
Thanjavur District.

9.The Superintendent of Police,
O/o, Superintendent of Police,
Thanjavur.

10.A.Paranjothi

11.Sundaramoorthy

12.Dhanalakshmi

13.The District Collector,
O/o, District Collector,
Thanjavur District.

: Respondents

Prayer: The Civil Revision Petition is filed under section 115 of Civil procedure code to set aside the order dated 03.12.2016 made in unnumbered O.S.No. Of 2016 and to direct the learned District Munsif, Pattukkottai, to number the original suit.

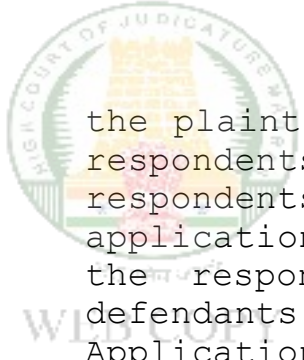
For Petitioner : Mr. S. Rajasekar

O R D E R

This Civil Revision Petition is filed to set aside the order dated 03.12.2016 made in unnumbered O.S.No. Nil Of 2016 and to direct the learned District Munsif, Pattukkottai.

2. The petitioner filed the suit in unnumbered O.S against the respondents herein and seeking relief against the respondents 7,8,10,11 and 12. The first prayer in the suit is injunction restraining the respondents 10 to 12 from interfering with his peaceful possession and enjoyment of the suit property. The second prayer sought for by the petitioner is against the respondents 7 and 8 is not to interfere with his peaceful possession and enjoyment over the property. Along with plaint petitioner filed five applications against the respondents. The petitioner filed suit in O.S.No. 78 of 2007 on the file of the Sub Court, Pattukkottai for declaration and injunction against one Ayyamperumal who is the father of the respondents 10 to 12 and others in respect of the suit properties and other properties. The said suit was dismissed.

3. Against that the petitioner filed first appeal along with application in I.A.No.124 of 2016 on the file of the Principal District Court, Thanjavur for condoning the delay in filing first appeal. In the circumstances, the learned Judge considered the averments in the plaint and rejected the plaint on the ground that



the plaint does not disclose any cause of auction against all the respondents. There is no relief sought for against the respondents 1 to 6 and respondents 9 and 13 in the suit. In the application the petitioner sought for injunction order against all the respondents and filed five applications against all the defendants and paid Court fee only in the Interlocutory Application for injunction. The petitioner filed O.S.No. 78 of 2007 against the father of the respondents 10 to 12 and the same was dismissed. Against that the petitioner filed an first appeal along with I.A.No.124 of 2016 and the same is pending and therefore, the present suit is hit by res judicata. Against the said order, the present Civil Revision Petition is filed.

4. The learned counsel appearing for the petitioner submitted that the learned Judge erred in rejecting the plaint without numbering the suit. The learned Judge ought to have seen that earlier suit filed by the petitioner is against the different parties for different relief. The learned Judge failed to see that the petitioner has not suppressed any materials fact. The 10th respondent filed O.S.No.131 of 2014 on the file of the Sub Court, Pattukkottai and he admitted in his plaint that the petitioner is in possession of the suit property. Now, 10th respondent is trying to get Electricity connection in his name and learned Judge erred in holding that plaint does not disclose any cause of auction and ought to have numbered the suit.

5. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. Reading of the plaint discloses that the petitioner in the suit is not claiming any relief against the respondents 1 to 6, 9 and 13. But, the petitioner is seeking interim order against all the respondents. The learned Judge considered the entire averments in the plaint and also earlier suit against the father of the respondents 10 to 12 and has held present suit discloses no cause of auction and hit by principles of res judicata, in view of the earlier suit filed by the petitioner against the father of the respondents 10 to 12 was dismissed. The learned Judge has given cogent and valid reason for the said rejection. In the circumstances there is no illegality or irregularity in the order passed by the Court below warranting interference by this Court.

7. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar



The learned District Munsif, Pattukkottai.

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+1 CC to M/s.T.LAJAPATHYROY, Advocate, SR No.82698

TRP

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