



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.261 of 2016 (PD)

N.Vijayakumar

.. Petitioner/Plaintiff/Petitioner

Vs.

The Executive Officer,
The Selection Grade Town Panchayat,
Thisayanvillai,
Tirunelveli District.

.. Respondent/Defendant/Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to set aside the order, dated 27.07.2015 made in I.A.No.839 of 2015 in O.S.No.148 of 2012 on the file of the District Munsif Court, Vallioor.

For Petitioner : Mr.S,Siva Thilakar

For Respondent : Mr.G.Muthukannan

ORDER

The petitioner is the plaintiff, whereas the respondent is the defendant in O.S.No.148 of 2012.

2.The petitioner filed O.S.No.148 of 2012 for declaration that the notification in Na.Ka.No.A2/22/209, dated 22.02.2010 issued by the respondent Executive Officer is not binding on the petitioner and for permanent injunction restraining the respondent or his men from implementing the above said notification. When the suit was pending, the petitioner filed an application in I.A.No.444 of 2012 for injunction. The petitioner deposited a sum of Rs.2,00,000/- to the credit of suit in order to enable him to participate in the auction conducted by the respondent. The respondent did not conduct any auction. The suit filed by the petitioner was dismissed on 28.08.2014. Against the judgement and decree passed in O.S.No.148 of 2012, the petitioner filed Appeal Suit in A.S.No.100 of 2014 and the same is pending. While so, the petitioner filed I.A.No.839 of 2015 for refund of Rs.2,00,000/- deposited by him. The respondent filed counter affidavit and stated that the petitioner is a licensee is liable to pay a sum of Rs.7,04,000/-. But he paid only Rs.4,54,000/-. Notice was issued to the petitioner to pay balance amounts. The petitioner filed writ petition in W.P(MD)No.8860 of 2012 and as per the orders of this Court, the licence for collecting the entry fee in the bus stand was given to the petitioner. He did not pay the amounts as per orders. Total amount due is Rs.6,23,644. Appeal A.S.No.100 of 2014 is pending. In order to cause loss to the respondent, the petitioner has come out with present petition. The learned Judge considering the facts and materials on record dismissed the I.A., Against the dismissal of the I.A., the petitioner has come out with the present Civil Revision Petition.



3.The learned counsel for the petitioner submitted that notice issued on 22.02.2010 is not binding on the petitioner. The suit filed by the petitioner for injunction and declaration was dismissed. Against that, the petitioner filed A.S.No.100 of 2014 and the same is pending. The petitioner deposited a sum of Rs.2,00,000/- in order to enable him to participate in the auction. The respondent failed to conduct auction, therefore the petitioner is entitled to refund of Rs.2,00,000/- deposited by him in the credit of suit. The learned Judge erred in holding that the petitioner is liable to pay a sum of Rs.6,23,664/- and therefore prayed for allowing the Civil Revision Petition.

4.From the materials, it is seen that the suit is filed by the petitioner for declaration that the notification in Na.Ka.No.A2/22/209, dated 22.02.2010 issued by the respondent Executive Officer demanding the petitioner to pay arrears of lease amount was dismissed. The petitioner filed A.S.No.100 of 2014 and the same is pending. Further for the subsequent lease and arrears of lease respondent claimed a sum of Rs.6,23,664/- as arrears of the amount. Considering the facts and circumstances, the learned Judge has correctly dismissed the application filed by the petitioner. There is no irregularity or illegality in the said order warranting interference by this Court.

5.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Crl.side)

/True copy/

Sub Assistant Registrar

To
The District Munsif,
Vallioor.

+1cc to Mr.S.Siva Thilakar, Advocate SR.No.7843

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