



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.08.2016
CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

WEB COPY

C.R.P.(MD)No.388 of 2016

and

C.M.P.(MD)No.1704 of 2016

M.Petchiammal

.. Petitioner/Respondent/
9th Defendant

Vs.

U.Hariharaputhiran

.. Respondent/Petitioner/
Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the petition and order dated 26.10.2015, in I.A.No.709 of 2014 in O.S.no.242 of 2014 on the file of the Subordinate Court, Thoothukudi.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondent : Mr.S.Kadarkarai

ORDER

This Revision arises out of the order passed by the Subordinate Court, Tuticorin, in I.A.No.709 of 2014 in O.S.No.242 of 2014, dated 26.10.2015.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the records.

3. The respondent filed a suit in O.S.No.242 of 2014 against the petitioner and 15 others for partition and separate possession. He also filed an application in I.A.No.709 of 2014 for ad-interim injunction. The petitioner filed a memo stating that the written statement filed in the suit can be treated as counter for interim application. The learned Judge closed the application on 26.12.2015, by extending the interim injunction till the disposal of the main suit. Aggrieved over the order, the present Revision is filed.

4. Mr.G.Prabhu Rajadurai, learned counsel for the petitioner would submit that the suit was filed for partition, and the extent of the properties is about 5.56 acres in various survey numbers, whereas the petitioner is in possession to an extent of 5 cents and he is having an intention to construct a small building and now he is ready to give an undertaking that he would not claim any equity. It is further submitted that there can not be any order



in the interim injunction against the co-owners and that the learned Judge in a non speaking order closed the application, therefore, it is liable to be set aside by this Court.

5. Per contra, Mr.S.Kadarkarai, learned counsel for the respondent would submit that though the suit was filed for partition, the parties have to maintain the character and nature of the property, till the disposal of the suit without any alterations. It is further submitted that the learned Judge has given liberty to the petitioner to re-open the petition at any stage and therefore, this Revision is not maintainable.

6. It is not in dispute that the respondent instituted the suit for partition and the interim injunction application was closed without assigning any reasons. It is settled law that not only the administrative orders, but the judicial orders should contain reasons and the cryptic orders passed in this nature have been deprecated by this Court. Since the learned Judge has not assigned any reason for extending the interim injunction till the disposal of the suit, this Court is of the opinion that the order cannot be sustained.

7. In such view of the matter, the Civil Revision Petition is allowed and the interim injunction passed in I.A.No.709 of 2014 in O.S.No.242 of 2014, dated 26.10.2015 is set aside and the case is remanded back to the Subordinate Court, Tuticorin, for fresh disposal.

8. The learned Subordinate Judge, Tuticorin shall dispose of the application in I.A.No.709 of 2014 in O.S.No.242 of 2014 on merits in accordance with law within four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge, Thoothukudi.

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate, SR No.45626

+1 CC to Mr.S.KADARKARAI, Advocate, SR No.45207

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