



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2016

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP (MD).No.453 of 2016 and CMP(MD).No.1964 of 2016

R. Sekar : Revision Petitioner/2nd Defendant/Applicant

Vs.

1. D. Subramanian : Respondent/Plaintiff/Respondent
2. Thailammai Ammal : Respondent/1st Defendant/Respondent

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order dated 11.01.2016 made in I.A.No.603 of 2014 in O.S.No.445 of 2014 on the file of the learned I Additional Subordinate Judge, Trichy.

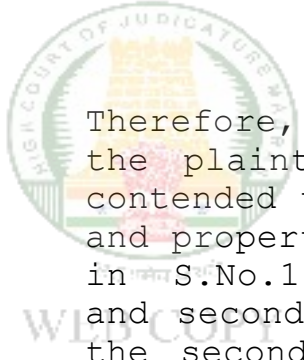
For Petitioner : Mr.Raguvaran Gopalan
For 1st Respondent : Mr. B. Jameel Arasu

O R D E R

The Civil Revision Petition is filed against the fair and decreetal order dated 11.01.2016, made in I.A.No.603 of 2014 in O.S.No.445 of 2014, on the file of the learned I Additional Subordinate Judge, Trichy.

2. The revision petitioner is the second defendant. The first respondent is the plaintiff. The first respondent / plaintiff filed a suit in O.S.No.445 of 2014, on the file of the learned I Additional Subordinate Judge, Trichy, against the revision petitioner and the second respondent, for injunction.

3. The revision petitioner filed I.A.No.603 of 2014, to reject the plaint, on the ground that the first respondent suppressed the material facts relating to case in O.S.No.310 of 2013, for permanent injunction filed by petitioner on the file of the learned District Munsif, Lalgudi. Subsequently, the same has been transferred to the file of learned I Additional Subordinate Judge, Trichy, and re-numbered as O.S.No.935 of 2015. In the said suit, the first respondent and one Ravanan are defendants. The revision petitioner has also filed an application for interim injunction. The first respondent entered appearance through his counsel and an interim injunction has been granted. Suppressing these facts, the first respondent filed O.S.No.445 of 2014, on the file of the learned First Additional Subordinate Judge, Trichy.



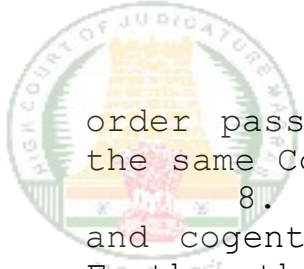
Therefore, the revision petitioner filed an application to reject the plaint. The first respondent filed counter affidavit and contended that he filed suit against the petitioner and two others and properties involved in the suit filed by him is larger extent in S.No.191/1 and another property in S.No.19/3B. The petitioner and second respondent are not lessees. Originally the husband of the second respondent was lessee, who gave lease to the second respondent. The second respondent surrendered the lease to the first respondent by registered deed and handed over the possession. The properties involved in both the suits are different and prayed for dismissal of the application filed by the petitioner to reject the plaint. The learned Judge considering the facts and materials on record dismissed the same. Against that, the present revision is filed.

4. The learned counsel appearing for the petitioner contended that the learned Judge failed to see that the first respondent suppressed the fact of the suit filed by the petitioner and the interim injunction granted by the Court in the suit filed by him. Suppression of the fact is a ground for rejection of the plaint. Further, the suit filed by the first respondent is in multiplicity of proceedings. The first respondent did not implead Ravanan who is joint owner of the suit property. The learned Judge erred in holding that suit filed by petitioner alone is not a ground for rejection of the plaint.

5. The learned counsel appearing for Caveator submitted that the petitioner suppressed the fact that already he has filed Transfer O.P.No.30 of 2015 on the file of Principal District Judge, Trichy, and by order dated 18.08.2015, the said suit in O.S.No.310 of 2013 was transferred to the file of learned I Additional Subordinate Judge, Trichy and re-numbered as O.S.No.935 of 2015, for joint trial and the trial commenced and the first respondent was examined in chief and the petitioner cross examined first respondent and suit is posted for evidence, on behalf of petitioner.

6. I have heard the learned counsels appearing on either side and perused the materials available on record.

7. From the materials available on record it is seen that the petitioner filed O.S.No.310 of 2013 (re-numbered as O.S.No.935 of 2015) against the first respondent and one Ravanan for permanent injunction, in respect of the property in S.No.191 /1, whereas the first respondent filed present suit in O.S.No.445 of 2014, against the petitioner and second respondent and one Kamalam in respect of the property in S.Nos.191/1 and 19/3B. Further, the first respondent has contended that the second respondent was lessee of the property and she surrendered the lease by registered document and handed over the possession. The properties in the two suits are different and parties are not same. As per the



order passed in Transfer O.P, both the suits are pending before the same Court and the joint trial is being conducted.

8. In the circumstances, the learned Judge has given valid and cogent reasons for dismissing the Interlocutory Application. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

9. In the result, the Civil revision petition is dismissed confirming the impugned order dated 11.01.2016 made in I.A.No.603 of 2014 in O.S.No.445 of 2014 on the file of the learned I Additional Subordinate Judge, Trichy. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

The learned Ist Additional Subordinate Judge, Trichy.

+One cc to Mr.B.Jameel Arasu, Advocate, SR.No.11187

trp

RL/3C/3P/SKS/RR/SARI/3/6/2016

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