

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

**CRP(PD).No.107 of 2017
and
CMP.No.518 of 2017**

C. Kuppan Vathiyar

...Petitioner

Vs.

D. Venkatesan

....Respondent

PRAYER: Petition filed under Article 227 of The Constitution of India against the fair and decreetal passed in order CMA.No.3 of 2016 dated 18.11.2016 on the file of the Court of Subordinate Judge, Vellore, reversing the fair and decreetal order dated 07.01.2016 passed in I.A.No.616/2015 in O.S.No.169/2015 on the file of the Principal District Munsif, Vellore.

For Petitioner ... Mr.R.Margabandhu

For Respondent .. Mr.R.Karthikeyan

ORDER

Mr.R.Margabandhu, learned counsel, is present on behalf of the revision petitioner.

2. Mr.R.Karthikeyan, learned counsel, is present on behalf of the sole respondent.

3. By consent of both the learned counsel, the main revision petition is taken up for hearing.

4. Mr.R.Margabandhu, learned Counsel, is present on behalf of the revision petitioner before me, who is the sole defendant in the trial court in O.S.No.169/2015 which is hereinafter referred to as the 'first suit' for the sake of convenience and clarity.

5. This revision is directed against an order dated 18.11.2016 made in CMA.No.3/2016 on the file of Subordinate Judge's Court at Vellore, granting an order of interim injunction qua possession, which was not granted (Interim injunction petition dismissed) by the trial court vide order dated 07.01.2016 in I.A.No.616/2015.

6. Be that as it may, it is not in dispute before me that the revision petitioner before me, who is the sole defendant in the first suit had subsequently filed another suit being No.306/2015 which is also pending in the same trial Court i.e., District Munsif Court at Vellore, which is herein after referred to as 'second suit' for the sake of convenience and clarity.

7. While the prayer in the first suit is for bare injunction qua possession, prayer in the second suit for recovery of possession. The suit properties are one and the same and the issue turns heavily on a pathway which has been described as 'B' schedule property in the second suit.

8. Considering the fact that the first suit is one for bare injunction qua possession and that the second suit is by the defendant in the first suit for recovery of possession, it may be appropriate to direct the trial court to try both the suits together (joint trial) and dispose of the same expeditiously, without disturbing the order of interim injunction dated 18.11.2016 passed in CMA.No.3/2016 on the file of the Subordinate Judge's Court, Vellore. In other words, the order dated 18.11.2016 in CMA.No.3/2016 on the file of Subordinate Judge's Court at Vellore will continue to operate till the completion of joint trial and delivery of judgment.

9. The trial court viz., the District Munsif Court, Vellore, is directed to try both the first and second suits together (joint trial) and dispose of the same as expeditiously as possible and in any event within six months from the date of receipt of a copy of this order.

On the above terms, Civil Revision Petition is disposed of. Consequently, connected civil miscellaneous petition is closed. No costs.

03.04.2017

Speaking/Non-speaking order

Index :Yes/No

gv/sai

To

1. The Subordinate Court, Vellore.

2. The Principal District Munsif Court,
Vellore.

M. SUNDAR,J.,
gv

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