

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

CRP (PD) No.1586 of 2017
and CMP.No.7490 of 2017

The Kennel Club of India
Having Office at New No.28, Old No.89
AA Block 1st Street,
Anna Nagar,
Chennai - 600 040.

.. Petitioner

Vs

1.Vikram Dhamodharan
2.S.Parthy
3.D.Krishnamurthy
4.C.V.Sudarsan
5.Sib Shankar Chatterjee
6.S.R.Prusti
7.T.Preetham
8.K.K.Trivedi
9.S.Raman
10.Gauri Nargolkar
11.Sanjit Kumar Mohanthy.

.Respondents

Prayer:- Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the petition and order dated 13.04.2017 in I.A.No.533 of 2017 in O.S.No.133/2017 on the file of the Principal District Munsif Court, Coimbatore.

For Petitioner : Mr.R.Srinivas

ORDER

The petitioner has filed this Civil Revision Petition to set aside the petition and order dated 13.04.2017 passed in I.A.No.533 of 2017 in O.S.No.133/2017 on the file of the Principal District Munsif Court, Coimbatore.

2. The petitioner is the first defendant. The first respondent is the plaintiff and respondents 2 to 11 are the defendants 2 to 11.

2.1 The first respondent/plaintiff filed a suit in O.S.No.133 of 2017 on the file of District Munsif Court, Coimbatore, on 25.01.2017 (i) for declaration to declare the Minutes of the Meeting held on 02.11.2016 and the resolution passed by the defendants 2 to 11 as the Executive Committee Members of the first defendant with regard to suspending his life membership in the petitioner-club without issuing show cause notice and (ii) for permanent injunction restraining the defendants 2 to 11, being the Executive Committee Members of the 1st defendant or their men or agents or anyone claiming right through the defendants in any manner and in effect of the resolution dated 02.11.2016 pertaining to the suspension of life membership of the plaintiff either by denying the plaintiff's right to register litter/puppies/ dogs bred by him or to transfer of ownership

of such pups to others or to get the ownership of such pups transferred from others or to register the dogs imported from other countries or go sign stud forms and or to deny any rights privileges available to such other life members of the 1st defendant club in any manner.

2.2 Subsequent to the filing of the suit, the first respondent/plaintiff also filed I.A.No.112 of 2017 in O.S.No.133 of 2017 praying for ad-interim injunction. Interim injunction was granted on 25.01.2017. The defendants have entered appearance through their counsel. Thereafter, the plaintiff/petitioner filed I.A.No.533 of 2017 under Order XXXIX Rule 2-A of CPC for detention of the defendants 2 to 11/respondents 2 to 11 in civil prison, on the ground that the petitioner and other respondents (Club and its Executive Members) after receiving the order of injunction deliberately disobeyed the order by returning the application for registration of dogs and committed contempt. In the said I.A.No.533 of 2017, notice was ordered to the petitioner-club and respondents 2 to 11/defendants 2 to 11. Counter affidavit was filed by the petitioner-club and the respondents 2 to 11. The learned Judge has adjourned the case in I.A.No.533 of 2017 to 13.04.2017 and thereafter, it was posted on 20.04.2017 for disposal. Challenging the petition and ordering notice on

13.04.2017 in I.A.No.533 of 2017 in O.S.No.133/2017, the petitioner/1st defendant has filed the present Civil Revision Petition.

3. Heard the learned counsel appearing for the petitioner.

4. It is the contention of the revision petitioner that immediately on receipt of exparte injunction order dated 25.01.2017 at their end, the club has decided to contest the suit and filed the following three applications :

(i) I.A.No.344 of 2017 under Order 7 Rule 11 CPC, to reject the plaint;

(ii) I.A.No.345 of 2017 under Order 39 Rule 4 CPC and Section 151 of CPC, to vacate the order of injunction dated 25.01.2017 passed in I.A.No.122 of 2017;

(iii) I.A.No.346 of 2017 under Order 8 of the Arbitration and Conciliation Act, to refer the suit for arbitration.

The trial Court without deciding the applications filed by him, it has taken up the application filed by the plaintiff/1st defendant in I.A.No.533 of 2017 for hearing. According to the counsel for the petitioner-club, the three applications filed by it, must be heard first prior to the hearing of the application in I.A.No.533 of 2017 filed by the plaintiff.

5. From the order impugned in the Civil Revision Petition, it is seen in I.A.No.533 of 2017, notice has been ordered, and on receiving notice, petitioner club and respondents 2 to 11 have filed counter affidavit. The learned Judge posted the said I.A., for disposal on 20.04.2017. It is also contended by the petitioner-club that when an exparte order of injunction was passed on 25.01.2017 and when the defendants have filed an application to vacate the said order of injunction in I.A. No.345 of 2017, the learned Judge should have considered the application filed in I.A. No.345 of 2017, to vacate the injunction order, instead, the learned Judge has taken up the application filed by the plaintiff in I.A.No.533 of 2017 for hearing and subsequently posted it for disposal on 20.04.2017, which is illegal and unlawful. The learned counsel for the petitioner has not stated as to when the other applications are posted for hearing.

5. Under the said circumstance, without deciding the Civil Revision Petition on merits, the learned District Munsif Judge, Coimbatore, is directed to hear all the applications viz., I.A.No.344 of 2017, I.A.No.345 of 2017 and I.A.No.346 of 2017, filed by the petitioner along with I.A.No.533 of 2017 in O.S.No.133 of 2017 and pass orders on merits and in accordance with law.

6. In the result, this Civil Revision Petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

27.04.2017

ds

Note : Issue order copy on 28.04.2017

Speaking order/Non-speaking order
Index : Yes/No

To:

The Principal District Munsif Court,
Coimbatore.

V.M.VELUMANI,J

ds

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