

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1719 of 2017
and C.M.P.No.8146 of 2017

Kalawathi

.. Petitioner

Vs.

Lakshmanan

.. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the petition and order dated 06.04.2017 made in I.A.No.673 of 2017 in O.S.No.205 of 2017 on the file of the Principal District Munsif Court, Bhavani.

For Petitioner : Mr.C.Prabakaran

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 06.04.2017 made in I.A.No.673 of 2017 in O.S.No.205 of 2017 on the file of the learned Principal District Munsif Court, Bhavani.

2. The petitioner is the defendant and the respondent is the plaintiff in O.S.No.205 of 2017. The respondent filed the suit for

declaration declaring the plaintiff's right over the suit cart track as per law of easement by necessity and for permanent injunction. Along with the suit, the respondent filed IA. No. 673 of 2017 for temporary injunction.

3. The learned Judge, considering the averments made in the plaint and documents filed by the respondent, held that the respondent has made out *prima facie* case, and the balance of convenience is in his favour and granted temporary injunction on 06.04.2017 till 06.06.2017.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The grievance of the petitioner is that as per Order 39 Rule 3(A) of C.P.C., if *ex-parte* injunction is granted, the application must be disposed of within 30 days, which is a mandatory provision.

6. The learned Judge committed an irregularity by granting temporary injunction for 60 days as prayed for, on 06.04.2017.

From 29.04.2017 summer vacation intervened and the learned Judge posted the application on 06.06.2017 for hearing.

7. The learned Judge, considering all the materials available on record, granted the injunction by giving cogent and valid reasons. In these circumstances, there is no illegality or irregularity warranting interference by this Court in the order of the learned trial Judge, dated 06.04.2017.

8. In view of the mandatory provision, the learned Judge is directed to pass an order in IA No.673 of 2017 on merits and in accordance with law, after hearing both the parties, within two weeks from 06.06.2017. Parties are directed to co-operate for trial and without taking any unnecessary adjournments.

9. With the above directions, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2017

Index : Yes

jv

Note: Issue order copy by 02.06.2017

V.M.VELUMANI, J.

jv

To

The Principal District Munsif,
Bhavani.

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