

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.1822 to 1824 of 2017
& C.M.P.Nos.8741,8742 of 2017

Mani		.. Petitioner in all CRPs.
	Vs.	
Abdul Latheef		.. Respondent in all CRPs.

Prayer in C.R.P.No.1822 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India, against the common order dated 22.02.2017 made in C.M.A.No.9 of 2014 on the file of the learned Subordinate Judge, Perambalur, confirming the judgment dated 27.09.2006 in I.A.No.720 of 2006 in O.S.No.273 of 2006 on the file of the learned District Munsif, Perambalur.

Prayer in C.R.P.Nos.1823 and 1824 of 2017: Civil Revision Petitions filed under Article 227 of the Constitution of India, against the common order dated 22.02.2017 made in I.A.Nos.4 and 5 of 2016 in C.M.A.No.9 of 2014 on the file of the learned Subordinate Judge, Perambalur.

For Petitioner : M/s.C.S.Associates

For Respondent : R.Gokulakrishnan

COMMON ORDER

These Civil Revision Petitions have been filed against the common order dated 22.02.2017 made in C.M.A.No.9 of 2014 on the file of the learned Subordinate Judge, Perambalur, confirming the judgment dated 27.09.2006 in I.A.No.720 of 2006 in O.S.No.273 of 2006 on the file of the learned District Munsif, Perambalur.

2. In all the three civil revision petitions, the issues are inter linked and hence, they are disposed of by this common order.

3. The petitioner is the defendant and respondent is the plaintiff in O.S.No.273 of 2006. The petitioner is the appellant and respondent is the respondent in C.M.A.No.9 of 2014. The respondent filed the suit for permanent injunction restraining the petitioner from interfering with his peaceful possession and enjoyment of the suit property. Along with the suit, the respondent filed I.A.No.720 of 2006 for temporary injunction, pending suit.

4. According to the respondent, he purchased the suit properties by two sale deeds dated 18.10.1985 and 28.11.1985 and from that date of purchase, he is in possession and enjoyment of the properties. The petitioner tried to interfere with his peaceful possession and enjoyment of the suit property. Therefore, the respondent filed the suit for permanent injunction and I.A.No.720 of 2006 for temporary injunction.

5. The petitioner filed counter affidavit in the said application and submitted that the respondent is not acquired any title by two sale deeds. The suit property originally belonged to his grand father S.Pichaikkali. The said property was enjoyed as joint family property. The petitioner, his brother and sisters have 1/7 share in the suit property. The petitioner's father viz., Chellappan is a drunkard and without any right, he sold the property to the respondent.

6. Before the trial Court, both the petitioner/respondent have not let in any oral evidence and respondent marked seven documents as Exs.A1 to A7. The petitioner did not mark any documents.

7. The learned Judge considering the averments made in the affidavit, counter affidavit and documents filed by the respondent, held that the respondent has proved his possession in the suit property and the petitioner has not produced any document to substantiate his contention made in the counter affidavit. The respondent has made out prima facie case and balance of convenience is in favour of the respondent. In view of the said finding, the learned trial Judge has granted interim injunction pending suit.

8. Against the order of interim injunction dated 27.09.2006 made in I.A.No.720 of 2006, the petitioner has filed C.M.A.No.9 of 2014 on the file of the Sub Court, Perambalur and the petitioner has also filed two applications in I.A.Nos.4 of 2015 and 5 of 2016 in C.M.A.No.9 of 2014 for permission to produce and mark additional documents. According to the petitioner, he got the said documents only recently and hence, sought for permission to mark those documents.

9. The respondent filed counter affidavits in the said applications and submitted that the petitioner has not given any reason for marking the said documents at belated stage and claim of the petitioner is barred by limitation.

10. The learned Judge heard two applications along with C.M.A.No.9 of 2014 and dismissed the appeal and two applications holding that the petitioner has not given any reason for filing and not marking those documents earlier except stating that he got those documents only recently and relevancy of the documents are to be decided only during trial. The learned Judge also held that the petitioner has not stated that he has taken steps earlier to get the documents. As per the provision under Order 41 Rule 27 of C.P.C, the petitioner has not made out a case for marking the documents at the belated stage. The respondent has proved his possession and also made out prima facie case and balance of convenience is in his favour.

11. Against the order of dismissal dated 22.02.2017 made in C.M.A.No.9 of 2014, the present civil revision petition is filed by the petitioner.

12. Heard both sides and perused the materials available on record.

13. The contention of the learned counsel for the petitioner is that the petitioner, his brother and sisters have 1/7 share in the suit property and two sale deeds dated 18.10.1985 and 28.11.1985 relied on by the respondent are not valid and respondent has not acquired any title to the suit property. The title of the suit property is not an issue in the present suit. The respondent filed the suit for permanent injunction and pending suit, prayed for temporary injunction. To decide the issue of injunction in the suit the only consideration is to ascertain whether who is in possession of the suit property. The respondent has produced the documents to prove his possession. The petitioner has not produced any document to substantiate that the respondent has not acquired title to the suit property.

14. Both the Courts below have considered all the materials available on record and held that the respondent has proved his possession, a prima facie case has been made out and balance of

convenience is in his favour. There is no illegality or irregularity warranting interference by this Court with the order of the learned trial Judge, dated 22.02.2017. In view of the said findings, all the three civil revision petitions are dismissed as devoid of merits.

15. In the result, the Civil Revision Petitions are dismissed. The suit is of the year 2006 and the learned District Munsif, Perambalur, is directed to dispose the suit on merits, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order, without being influenced by the order passed in I.A.No.720 of 2006, common order passed in C.M.A.No.9 of 2014 and the order passed in these civil revision petitions. No costs. Consequently, connected miscellaneous petitions are closed.

09.06.2017

Index : Yes/No

dm/kj

To

- 1.District Munsif,
Perambalur.
- 2.The Subordinate Judge,
Perambalur.

V.M.VELUMANI, J.

dm/kj

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