

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

**C.R.P.(PD)No.2180 of 2014
and
MP.No.1 of 2014**

1.E.Selvanathan
2.S.Gopinathan

.. Petitioners

Vs.

Maragadham (died)
Ranganathan(died)
1.Rajam
2.Karpagam

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order in I.A.No.1105/2013 in O.S.No.512/1999 dated 13.11.2013 passed by the learned Additional District Munsif Court at Alandur.

For Petitioners : Mr.A.Rajesh Kanna

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order in I.A.No.1105/2013 in O.S.No.512/1999 dated 13.11.2013 passed by the learned Additional District Munsif Court at Alandur.

2. The petitioners are the defendants in O.S.No.512/1999 on the file of the District Munsif Court, Alandur. The respondents who are the plaintiffs 3 and 4 along with two others filed a suit for permanent injunction restraining the petitioners/defendants, their men, agents, servants or anyone acting on their behalf from any way trespassing into the suit property thereby disturbing the plaintiffs/respondents' peaceful possession and enjoyment of the suit property.

3. The defendants/petitioners herein filed a written statement on 29.11.2002 and are contesting the suit. Trial commenced. The respondent let in evidence and closed their side. The petitioner examined DW1 and DW2 and suit was posted to 11.06.2013 for cross-examination of the DW2/second petitioner herein. At that stage, the petitioners filed I.A.No.1105/2013 under Section 151 CPC to stay all further proceedings in the suit till the disposal of the W.P.No.12753/2013 filed by the Vice-President, Federation of Civic and Welfare Association of Pallavaram Municipality.

4. According to the petitioners, the suit property is in the prohibited area and the issues are pending before the Government and also before this Court. The decision in the writ petition will have a direct bearing on the issues in the suit.

5. The Respondents filed counter affidavit and denied all the averments made by the petitioner in the affidavit filed in support of the above petition and submitted that the petitioners are in the habit of filing application after application to drag on the proceedings. The applications filed by the petitioners were dismissed and Civil Revision Petitions filed challenging the same also were dismissed. The suit is of the year 1999 and when the suit is posted for cross examination of DW2, the petitioners have come out with the present application only to drag on the proceedings.

6. The learned Trial Judge considering the averments in the affidavit and counter affidavit, dismissed the application holding that the parties and relief sought for in the writ petition and the present suit are not one and the same and are different. The suit is pending from the year 1999 and the petitioners have filed an interlocutory Application I.A.No.1105/2013 in the year 2013 only to drag on the proceedings.

7. Aggrieved against the order dated 13.11.2013 made in I.A.No.1105/2013 in O.S.No.512/1999, the present Civil Revision Petition is filed.

8. From the records, it is seen that the petitioners have filed number of applications and challenged the dismissal of that applications by filing Civil Revision Petitions which were also dismissed. The suit is of the year 1999. The present application is filed when the suit is posted for cross - examination of DW2 in the year 2013 and the suit is pending. In the circumstances, the learned Trial Judge has rightly observed that the parties and the relief sought for in writ petition and suit are not one and the same. The reasoning given by the learned Trial Judge is a valid reason and there is no irregularity or illegality in the order passed by the learned Trial Judge warranting interference of this Court.

In the result, the Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs. Since the suit is of the year 1999, the learned Trial Judge is directed to dispose of the suit, as expeditiously as possible, in any event, not later than three months from the date of receipt of a copy of this order.

10.04.2017

Speaking/Non-speaking order
Index :Yes/No

gv

To

The Additional District Munsif Court,
Alandur.

V.M.VELUMANI., J.

gv

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