

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.327 of 2017
and
C.M.P.No.1451 of 2017

Putrukkan Nagathamman Charitable Trust,
Represented by its Trustee-K.S.Palanisamy
Vs.

.. Petitioner

1. K.R.Viswanathan
2. Mrs.Krishnaveni
3. C.S.Ramesh Babu

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.11.2016 made in I.A.No.446 of 2016 in O.S.No.215 of 2015 on the file of the Principal District Munsif Court, Erode.

For petitioner : Mr.C.Prabakaran

ORDER

The suit is filed by the plaintiff for injunction restraining the defendants from encroaching or altering the suit property. It is stated that pending suit, in I.A.No.375 of 2015 , interim injunction was granted. While

the order of interim injunction is in force, it is alleged that the defendants have attempted to demolish and remove the Temple, namely Arulmighu Putrukkan Nagathamman Temple, with the aid of a J.C.P. machine on 16.03.2016. On information, the said action was stopped by the plaintiff. Therefore, the plaintiff has come forward with the present application to appoint an Advocate Commissioner to note down the physical features of the suit property, so that it will be useful in the event that the defendants make another attempt to demolish the same. The said application was dismissed, against which, the present revision is filed by the plaintiff-Temple.

2. First of all, it is seen that the plaintiff has filed the suit for bare injunction restraining the defendants from encroaching the suit property. The trial Court has granted interim injunction. Despite the order of interim injunction, if the defendants had acted high-handedly as alleged to remove the said Temple, it is open for the revision petitioner-plaintiff to take out an application for Contempt of Court for flouting the order of the Court. But, without doing so, the plaintiff has filed the application to appoint the Commissioner to note down the physical features of the suit property, which is not necessary at this point of time. Admittedly, in the affidavit filed in support of I.A.No.446 of 2016, it is stated that the defendants were stopped

from encroaching and damaging the suit property. Hence, the application for appointment of Commissioner, itself, is unnecessary. The Civil Revision Petition is accordingly dismissed. No costs. C.M.P. is closed.

07.02.2017

CS

Copy to

The Principal District Munsif, Erode.

PUSHPA SATHYANARAYANA, J

CS

C.R.P.(PD).No.327 of 2017

07.02.2017

<http://www.judis.nic.in>