

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2017

CORAM:

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

C.R.P.(PD) No.1088 of 2015
and M.P.No.1 of 2015

Young Men's Christian Association Madras
N.24/23, NSC Bose Road,
Chennai – 600 001.

Represented by its General Secretary

... Petitioner

..Vs..

V.Prince Clement Vijayakumar

... Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the order dated 26th February 2015 passed in Memo SR.No.5793 of 2015 in O.S.No.5911 of 2013 on the file of the I Assistant City Civil Court, Chennai and to direct the respondent to comply with the direction dated 25th June 2013 passed in I.A.16017 of 2013 in O.S.No.5911 of 2013.

For Petitioner: Mr.Muthumani Doraisamy
Sr. Counsel for

Mr.V.R.Thangavelu

For Respondent: Mr.P.Premkumar

ORDER

This Civil Revision Petition has been filed to set aside the order dated 26.02.2015 passed in Memo SR.No.5793 of 2015 in O.S.No.5911 of 2013 on the file of the I Assistant City Civil Court, Chennai, and to direct the respondent to comply with the direction dated 25.06.2013 passed in I.A.No.16017 in O.S.No.5911 of 2013.

2.1. The petitioner is the defendant and respondent is the plaintiff. The respondent filed a suit for (i) declaration that the order dated 19.10.2012 passed by the petitioner terminating the service of the respondent as null and void and consequently directing the petitioner to reinstate the respondent with all attendant benefits and (ii) to direct the petitioner to return a sum of Rs.90,000/- paid by the respondent to the petitioner.

2.2.The respondent filed an application in I.A.No.16031 of 2013 under Order XXXIX Rule 1 & 2 r/w 151 CPC praying to grant ad-interim injunction restraining the petitioner from interfering with the respondent's peaceful possession and enjoyment of the quarters, pending disposal of the suit. The trial Court vide order dated 25.06.2014, dismissed the application with

a direction to the respondent to pay the damages at the rate of rent which he had paid. The petitioner filed written statement on 04.01.2014 and is contesting the suit. The trial commenced. Thereafter, the petitioner filed a memo dated 05.2.2015 stating that the respondent failed to comply with the order of the trial Court dated 25.06.2014 passed in I.A.No.16017 of 2013, so that, he cannot proceed with the trial, until he complies with the order of the trial Court. The respondent filed an objection to the memo on 26.2.2015 stating that the trial Court has not imposed any condition as precedent in conducting the trial in the suit.

3. The learned Judge upon considering the order dated 25.6.2014 made in I.A.No.16017 of 2013, memo dated 05.02.2015 filed by the petitioner, and the objection dated 26.02.2015 raised by the respondent, closed the memo in SR.No.5793 filed by the petitioner holding that there is no conditional order directing the respondent to pay the amount and posted the suit for trial.

4. Challenging the said order dated 26.02.2015 passed in the memo, the present Civil Revision Petition is filed.

5. Heard the learned senior counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials on record.

6. From the order dated 25.06.2014, it is seen that the application for injunction filed by the respondent was dismissed, and it is not a conditional order directing the respondent to pay damages and to proceed with the trial. In view of the same, the contention of the petitioner that the respondent failed to comply with the conditional order and therefore he cannot proceed with the trial, has no merits and is not acceptable. There is no error in the order dated 26.02.2015, passed by the learned I Assistant Judge, City Civil Court, Chennai in Memo SR.No.5793 of 2015 in O.S.No.5911 of 2013 and this revision is liable to be dismissed.

7. The learned Senior counsel appearing for the petitioner submitted that the suit is of the year 2013 and prayed for speedy disposal of the same.

8. In the result, the Civil Revision Petition is dismissed with a direction to the learned I Assistant Judge, City Civil Court, Chennai 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. The petitioner is also at liberty to proceed with recovery of amount by initiating further proceedings before the trial Court. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2017

Speaking Order / Non-speaking Order
Index : Yes/No
Internet: Yes/No

To

The First Assistant City Civil Court,
Chennai.

V.M.VELUMANI,J

ds

C.R.P.(PD)No.1088 of 2015
and M.P.No.1 of 2015

09.06.2017

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