

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM:

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

CRP (PD) No.4406 of 2014
& MP.No.1 of 2014

1.Kanniappan
2.Manickam

...

Petitioners

Vs.

Venkatesan @ B.Karunakaran

...

Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the fair and decretal order passed by the District Munsif Court, Thiruvallur in I.A.No.958 of 2012 in O.S.No.222 of 2008 dated 22.10.2013.

For Petitioners : Mr.A.R.Suresh
For Respondent : Mr.R.Selvakumar

ORDER

The respondent filed a suit for injunction. The petitioners filed written statement and contested the matter. The petitioners after the conclusion of evidence on the side of the respondent, filed an application in I.A.No.958 of 2012, seeking permission to file additional written statement. The application was dismissed by the trial Court on merits. The said order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel appearing for the petitioners and the learned counsel for the respondent.

3. The suit filed by the respondent in O.S.No.222 of 2008 before the District Munsif Court, Tiruvallur, was in respect of 21 items of properties. The petitioners filed written statement and disputed the claim made by the respondent with respect to the items of properties . According to the petitioners, while processing the papers for preparing the proof affidavit, it was found that the respondent has no title in respect of the properties in Sl.Nos.5, 8, 11 and 15. It was only to plead before the trial Court with respect to the properties in item Nos.5, 8, 11 and 15, the petitioners have filed an application seeking leave to file additional written statement. It is a matter of record that the application was filed even before adducing the evidence. The petitioners being the defendants were justified in filing the application on account of the reasons given in the affidavit filed in support of the interlocutory application.

4. The learned trial Judge appears to have considered the merits of the matter while deciding the application in I.A.No.958 of 2012. The trial Court was expected to decide as to whether there was any bonafides in

the application filed after the conclusion of the evidence on the side of the respondent. The trial Court acted beyond the brief by discussing the merits of the matter while dismissing the application seeking leave. I am therefore of the view that the impugned order is liable to be set aside. Accordingly, the order dated 22.10.2013 in I.A.No.958 of 2012 is set aside. The petitioners are permitted to file additional written statement.

5. The learned trial Judge is directed to give an opportunity to the respondent to file additional reply statement, in view of the additional written statement filed by the petitioners. Similarly, opportunity should be given to the respondent to re-open the evidence, to lead further evidence on account of subsequent events.

6. The Civil Revision Petition is allowed with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2017

ds

To:

The District Munsif Court,
Thiruvallur.

K.K.SASIDHARAN, J.

ds

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