

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD) No.14 of 2015
& M.P.No.1 of 2015

Krishnamurthy

...

Petitioner

Vs.

Kesavan

...

Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order made in I.A.No.196 of 2012 in O.S.No.113 of 2010 dated 16.07.2012 on the file of the District Munsif Court, Sholinghur, Vellore.

For Petitioner : Mr.V.Ashok Kumar

For Respondent : Mr.A.Gowthaman

ORDER

This Civil Revision Petition has been filed against the order made in I.A.No.196 of 2012 in O.S.No.113 of 2010 dated 16.07.2012 on the file of the District Munsif Court, Sholinghur, Vellore.

2. The petitioner is plaintiff and respondent is the defendant in O.S.No.113 of 2010 on the file of the District Munsif Court, Sholinghur, Vellore. The petitioner filed the above suit for permanent injunction restraining the respondent from interfering with his peaceful possession and enjoyment of the suit schedule property. The respondent filed written statement on 20.12.2010 and is contesting the suit. The petitioner filed I.A.No.196 of 2012 in O.S.No.113 of 2010 under Section 151 CPC for return of documents mentioned therein. According to the petitioner, the documents of title are required by him for obtaining Bank loan. The respondent filed counter and opposed the said application. According to the respondent, even though the suit is for permanent injunction, the respondent is disputing the title of the petitioner and respondent is claiming title to the suit property. The petitioner is not entitled to get loan and develop the suit property and status quo has to be maintained by both the parties and prayed for dismissal of the application.

3. The learned Judge, considering the averments in the affidavit, counter affidavit and relief sought for in the suit, dismissed the application on the ground that the title of the suit property is in dispute and even though the suit is for injunction, till the title of the

properties are determined, both the parties are liable to maintain status quo. The learned Judge has also held that return of documents sought for by the petitioner is against the principles of law and the said application is not maintainable.

4. Against the said order of dismissal dated 16.07.2012 made in I.A.No.196 of 2012 in O.S.No.113 of 2010, the present Civil Revision Petition is filed by the petitioner.

5. Heard the learned counsel for the petitioner as well as respondent and perused the materials available on record.

6. Admittedly, the suit is for permanent injunction. The petitioner, as a plaintiff, has to prove his possession and has to prove that respondent is interfering with his possession. Title of the suit property is not an issue. The petitioner has to prove his possession. The learned Judge has dismissed the application erroneously on the ground that return of documents is against the principles of law. The documents filed in the suit can be returned by substituting certified copies of the said documents and on the undertaking given by the petitioner that he would produce the same, as and when the same is required by the Court. For the

above reasons, the impugned order of the learned Judge is liable to be set aside and it is hereby set aside.

7. The learned Judge is directed to return the documents sought for by the petitioner on substituting the said documents by certified copies of the same issued by the Court and on undertaking that he will produce the same before court, if so directed by the learned Judge.

8. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

11.12.2017

rg

To

The District Munsif,
Sholinghur,
Vellore.

WEB COPY

V.M.VELUMANI, J.

rgr



C.R.P.(PD)No.14 of 2015

WEB COPY

11.12.2017