

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P.(PD).No.930 of 2014
and M.P.No.1 of 2014

1. P.Mani
2. P.Kalaignar
3. Arivazhagan

.. Petitioners

Vs.

Jaffar (died)

1. Noorjon
2. Raseetha
3. Mohammed Ali

.. Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 21.10.2013 made in I.A.No.88 of 2012 in I.A.No.624 of 2010 in O.S.No.121 of 2010 on the file of the learned District Munsif Court, Sankari.

For petitioners : Mr.N.Manokaran

For Respondents 1 and 2: Mr.T.Murugamanickam

For Respondent 3 : Served - No Appearance

ORDER

The revision is filed by the defendants against the order refusing to set aside the ex-parte order passed in I.A.No.624 of 2010.

2. The case of the revision petitioners is that when the suit is for bare injunction, the plaintiff had filed I.A.No.624 of 2010 for interim injunction under Order 39 Rule 1 and 2 C.P.C restraining the defendants from interfering from trespassing into the petition mentioned properties. After notice, even though written statement was filed by the petitioners/defendants, a memo was filed to treat the written statement as counter to the interim application. The interim injunction was already granted on 28.04.2010. Thereafter, sufficient opportunities were given to the petitioners/defendants either to vacate the interim injunction or contest the same. However, till the final orders, making the injunction absolute was passed on 25.10.2010, the defendants have not appeared before the Court and proceed with the enquiry. After the injunction was made absolute, the application under Order 9 Rule 7 was filed to set aside the same treating it as an ex-parte order.

3. From a reading of the said order, it is clear that it is not an ex-parte order but the defendants were deliberately absented themselves. Even otherwise, it is open to the defendants to file Civil Miscellaneous Appeal against the order of injunction, without doing so,

the defendants filed an application under Order 9 Rule 7 C.P.C to set aside the ex-parte order passed in I.A.No.624 of 2010. The said application was dismissed. As the order has been passed by the Court below only on merits, I see no reason to interfere with the same and that too, after almost seven years.

4. Considering the fact that the suit is for bare injunction, which is pending from the year 2010, this Court is inclined to direct the District Munsif, Sankari to dispose of the suit as expeditiously as possible, however, not later than 30.04.2017.

5. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10.01.2017

srn
To

The District Munsif Court, Sankari.

PUSHPA SATHYANARAYANA.J

srn

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