

IN THE HIGH COURT OF JUDICATURE AT MADRAS**Dated: 07.02.2017****CORAM****THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN****CRP(PD)No.2233 of 2010
and
CMP.No.1 of 2010**

Mohammed Asif

.. Petitioner

Vs.

S.Bhavani

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decree made in I.A.No.1302 of 2010 in O.S.No.645 of 2010 dated 17.06.2010, on the file of the learned Principal District Munsif, Puducherry.

For Petitioner : Mr.V.M.Venkatraman

For Respondent : No Appearance

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order and decree made in I.A.No.1302 of 2010 in O.S.No.645 of 2010 dated 17.06.2010, on the file of the Court of Principal District Munsif, Puducherry.

2.The defendant in the suit is the revision petitioner herein. It is the case of the revision petitioner is that respondent herein has filed a suit against the revision petitioner in O.S.No.645 of 2010, on the file of the Principal District Munsif Court, Puducherry for permanent injunction and mandatory injunction. The plaintiff filed a suit along with an application in I.A.No.1302 of 2010 for interim injunction in which notice was ordered to the revision petitioner. On receipt of notice the revision petitioner engaged his counsel and his counsel filed vaklath on 15.06.2010. The learned District Munsif, having received vaklath filed by the counsel for the revision petitioner without bringing it on record but returned the same, deliberately only with a view to grant interim injunction in favor of the respondent herein.

3.The attitude of the learned judge is high handed. Thereafter the copy application filed by the revision petitioner on the next day was also returned for the reasons best known to the learned judge. Further on the next day the revision petitioner filed two applications, one to set aside the Ex-parte order passed in I.A.No.1302 of 2010 and the other to stay the order of the injunction. The said applications were filed along with a second Vakalath by the counsel for the revision petitioner. However, the learned judge has returned both the applications for want of documentary evidence to prove the allegation. The present civil revision petition is filed questioning the ex-parte interim injunction granted by the trial Court.

4.I heard Mr.V.M.Venkatraman, learned counsel appearing for the revision petitioner. There is no representation was made for the respondent and perused the entire records.

5.At the outset, it is to be noticed that the revision petitioner has challenged the order of Ex-parte Injunction granted by the trial Court. It is needless to say that the said order is an appealable one and the appeal remedy is provided under Order 43 Rule 1(r) of C.P.C. The revision petitioner will have to question the impugned order before the

District Court at Puducherry only by filing appeal under Order 43, Rule 1(r) of C.P.C. Hence the Civil Revision Petition is not maintainable and on that ground it is liable to be dismissed.

6.Further, it is an Ex-parte order of interim injunction; therefore the revision petitioner would have very well filed an application to set aside the ex-parte order passed in I.A.No.1302 of 2010. According to the learned counsel for the revision petitioner, he filed application before trial Court to set aside the order of interim injunction but the same was returned. There is no explanation before this Court by the revision petitioner as to what happened to the ex-parte set aside petition.

7.For the fore going reason, the Civil Revision Petition is not maintainable on the ground that the petitioner has challenged an order of interim injunction, against which an appeal remedy is provided as stated above. During the course of arguments the learned counsel for the petitioner made a request to this Court to dispose of the suit at earliest.

8.In the result, the Civil Revision Petition is dismissed. However,

the trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order, without giving any adjournments to either side. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2017

Note: Issue order copy on 08.08.2017

Index: Yes/No

Internet: Yes/No

vs

To

The Principal District Munsif,
Puducherry.



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M.V.MURALIDARAN, J.

VS



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