

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 02.09.2016

Pronounced on 04.01.2017

DATED: 04.01.2017

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(PD)No.2060 of 2013
and
M.P.No.1 of 2013

1.M/s.Combined Engineering Industries
and Agencies Pvt. Ltd.,
Rep. By its Managing Director having
office at No.198, St.Mary's Road,
Abhiramapuram, Chennai-600 018.

2.Banumathi Sundararaman

.. Petitioners

Vs.

The Bishop of Chengalpattu
Diocese of Chengalpattu
(formerly Arch-Bishop of Madras-Mylapore)
Rep. By its Property Administrator,
for the time being Rev.Fr.Thomas Mundackal
having office at Bishop's House,
Timmavaram, Kancheepuram District,
Pin code – 631 501.

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the

Constitution of India, against the order and decretal order passed in C.M.A.No.22 of 2011 dated 08.02.2013, on the file of the Subordinate Judge, Tambaram.

For Petitioners : Mr.S.Swaminathan
for M/s.Span Associates

For Respondent : Mr.K.M.Balaji

O R D E R

Heard Mr.S.Swaminathan, learned counsel appearing for the petitioners and Mr.K.M.Balaji, learned counsel appearing for the respondent.

2.A perusal of records show that the respondent in this Civil Revision Petition, as plaintiff has filed a suit against the petitioners herein in O.S.No.58/2007 before the District Munsif Court at Alandur to pass a Judgment and Decree against the defendants/petitioners herein, directing the defendants to deliver vacant possession of the suit property to the plaintiff, to pay a sum of Rs.15,000/- per month for use and occupation from the date of filing of the suit till the date of delivery of the suit property and for Permanent Injunction restraining the defendants or their agents, men, servants from alienation, encumbering, sub-letting or transferring the suit property in favour of any third parties.

3.It is admitted fact that the suit property bearing Plot No.13, Ubagaramatha Colony, St. Thomas Mount, comprised in B.L.R.S.No:256/545, forming part of Adambakkam Village, Tambaram Taluk, Kanchipuram District, measuring to an extent of 7 grounds and 320 Sq.ft belongs to the plaintiff. The suit property was leased out to the husband of the 2nd defendant under Ex-P1 registered lease deed dated 10.5.1973 was also an admitted case of both parties. Subsequently the husband of the 2nd defendant had transferred the lease hold right in favour of the 1st defendant by transfer of registered lease deed vide document No:4189/79 has not admitted by the plaintiff as it was done without the consent or approval of the plaintiff in writing.

4.It is the further case of the Learned Counsel for the plaintiff/respondent herein that the 1st defendant had sub-let the demised property for a higher rent to M/s.Indo French Fashions Pvt. Ltd., which is as against the terms and conditions of the lease deed. The further contention of the plaintiffs / respondent herein that the petitioners herein have committed default in payment of rent and therefore the plaintiff apprehends that the defendants may alienate,

transfer and sub-let the suit property to third party. Hence along with the suit, the plaintiff has filed I.A.No:279/07 seeking for interim injunction against the defendants restraining them, their agents, servants or anybody from alienation, encumbering, sub-letting or transferring the suit property in favour of any third parties till the disposal of the suit.

5.Per contra, the Learned Counsel for the defendants / petitioners submit that only with the permission of the predecessor of the respondent herein, they have leased out the property in favour of M/s.Indo French Fashions Pvt. Ltd.,. It was also further contented by the petitioners that they made additional constructions in the suit property only after getting permission from the plaintiff. The suit and the present injunction petition are not maintainable as the tenancy is ever lasting. The petitioners herein also intimated the respondent herein that they are interested and agreeable for payment of higher rent, but there is no response from them.

6.The Learned trial judge on going through the arguments advanced on either side and also upon perusing the available materials and the documents marked on the side of the plaintiff/respondent

herein, was pleased to grant an order of injunction as prayed for by the plaintiff till the disposal of the suit. Aggrieved over the same, the petitioner herein filed appeal in C.M.A.No:22/11 before the Sub-Court, Tambaram. The Learned Sub-ordinate Judge on a careful perusal of the order of the trial court, was pleased to dismiss the appeal by order and decree dated 16.8.10. As against the order only, the present C.R.P has been filed.

7.I have gone through the entire order passed by the Learned District Munsif and also the Learned Sub-Judge. I have also given anxious consideration to the arguments advanced on either side. The Learned Judge after considering the case in detail and found that the suit property belongs to the plaintiff and has rightly held that the defendants have not produced any documents to show that they have made additional construction and the sub-let were with the permission or consent of the plaintiff. The defendants in violation of the registered lease deed, has sub-let the suit property to M/s.Indo French Fashions Pvt. Ltd and made construction without any permission from the plaintiff. Therefore the trial court has rightly held that the apprehension of the plaintiff is genuine and allowed the injunction application filed by the plaintiff/respondent herein. The Learned

appellate Judge also on a careful consideration of the case, has rightly held that the plaintiff is having prima facie case and the balance of convenience is also in favour of the plaintiff and rightly dismissed the appeal filed by the petitioner herein.

8. In view of the foregoing discussions, I do not find any merits in the above civil revision petition and the same is deserves dismissal.

9. However, I direct the Learned District Munsif, Alandur to dispose of the suit in O.S.No:58/007 within three months, but before the end of 31st March of 2017 as the suit is of the year 2007 and it is pending nearly for 10 years.

10. This C.R.P is dismissed with the above direction. No costs. Consequently, the connected Miscellaneous petition is closed.

04.01.2017

Index: Yes/No.
Internet: Yes/No.

vs

To

The Subordinate Judge,
Tambaram.

M.V.MURALIDARAN, J.

VS

Pre-Delivery order made in
CRP(PD)No.2060 of 2013
and
M.P.No.1 of 2013

04.01.2017

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