

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

**CRP(PD)Nos.3823 and 3871 of 2009
and
M.P.Nos.1 and 1 of 2009**

Mathialagan .. Petitioner in both the CRPs

Vs

1.Poongavanammal
2.Manickam
3.Manokaran

.. Respondents in both the CRPs

COMMON PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 27.10.2009 made in I.A.Nos.742 and 743 of 2009 in O.S.No.194 of 2006 on the file of the District Munsif Court, Dharmapuri.

For Petitioner : Mr.C.Prabakaran

For Respondents : Notice not ready (for R1 & R2)

COMMON ORDER

The petitioner by way of these Civil revision petitions seek to set aside the impugned orders made in and of I.A.Nos.742 and 743 of 2009 respectively in O.S.No.194 of 2006 on the file of the Learned

District Munsif, Dharmapuri.

2.The revision petitioner is the plaintiff in the above suit. The above suit is filed by him seeking for permanent injunction as against the respondent in respect of suit scheduled property.

3.The trial commenced and evidence was let in by either side. As such the suit stood for arguments. In the said factual background the revision petitioner filed two interlocutory applications to reopen the suit and to recall a witness for the purpose of marking some documents. The said applications were dismissed by the trial Court holding that the suit on hand being one for permanent injunction, the marking of documents will not serve plaintiff's case and the only point to be considered in a suit for Injunction is the factum of previous possession. The said Orders are under challenge in these Civil Revision Petitions.

4.I heard Mr.C.Prabakaran, learned counsel for the petitioner and perused the entire materials available on record.

5.On perusal of the impugned orders and the records available it is seen that the revision petitioner / plaintiff has sought for bare

Injunction as against the respondent and necessarily it is for him to establish his case through proper oral and documentary evidence to obtain a Decree of Permanent Injunction.

6.Of course the respondents are equally entitled to rebut the plaintiff's case by disputing the version of the revision petitioner through oral and documentary evidence.

7.Accordingly to do substantial justice and to enable complete adjudication and to avoid multiplicity of proceedings and for ensuring proper evaluation of material records and evidence, I am inclined to allow these civil revision petitions enabling the parties to adduce evidence and to get a Decree on proper and complete evaluation of material evidence.

8.Merely because the Suit on hand is for permanent injunction, it cannot be taken in lighter sense as though the parties are not entitled to adduce any evidence beyond possession and with regard to title and other aspects. Such rigid approach is erroneous and accordingly the impugned orders are liable to be set aside.

9.In the result:

(a) Both the Civil Revision Petitions are allowed, by setting aside the order passed in I.A.Nos.742 of 2009 and 743 of 2009 in O.S.No.194 of 2006 respectively, dated 27.10.2009, on the file of the learned District Munsif Court, Dharmapuri;

(b) The trial Court is directed to fix a date for further examination and marking of documents as prayed in I.A.Nos.742 of 2009 and 743 of 2009. After that, 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. No costs. Consequently, connected miscellaneous petitions are closed.

24.02.2017

vs

Note:Issue order copy on 29.01.2019

Index:Yes/No

Internet:Yes/No

To

The District Munsif Court, Dharmapuri.

WEB COPY

M.V.MURALIDARAN,J.

VS



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