

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.3845 of 2016
& C.M.P.No.19608 of 2016

G.Srinivasan

.. Petitioner

Vs.

Thulasi Ayya
President,
Madhakaram Panchayat
Madhakaram Village,
Mattayyan Thidal Post,
Valangaiman Taluk,
Thiruvavarur District.

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 30.08.2016 in I.A.No.58 of 2016 in O.S. No.5 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Valangaiman.

For Petitioner : Ms.P.Srividhya

For Respondent : Mr.R.Pradeep

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 30.08.2016 in I.A.No.58 of 2016 in O.S.No.5 of 2016 on the file of the learned District Munsif cum Judicial Magistrate, Valangaiman.

2.The petitioner is the plaintiff and the respondent is the 1st defendant in O.S.No.5 of 2016. The petitioner filed the suit for permanent injunction restraining the respondent from interfering with his peaceful possession and enjoyment of the suit property. The respondent filed written statement on 10.03.2016 and is contesting the suit. The petitioner filed I.A.No.16 of 2016 for temporary injunction pending suit.

3. The learned Judge passed order granting interim injunction dated 10.03.2016 restraining the respondent from interfering with the peaceful possession and enjoyment of the suit property, except with regard to the property, which belongs to the High Ways Department. The Petitioner filed the present I.A.No.58 of 2016 for a direction to the Inspector of Police, Papanasam police station to

give protection to the petitioner while restoring the fencing in the suit property.

4. According to the petitioner, the respondent has removed the fencing after order of injunction. The respondent denied having committed breach of injunction granted by the Court and stated that the petitioner had encroached the property belonging to the Government and the High Ways Department took possession of encroached portion from petitioner.

5. Before the learned Judge, the parties have not let in any oral evidence. The petitioner marked three documents as Exs.P.1 to P.3.

6. The learned Judge considering the Exhibits P.1 to P.3, averments in the affidavit, counter affidavit and the rival contention of the parties, dismissed the application holding that the petitioner has not proved that the respondent has breached the order of injunction granted by the Court and even in Ex.P.3, F.I.R. lodged by the petitioner against the respondent, he has not stated that the respondent personally committed breach and is interfering with his possession.

7. Against the order of dismissal dated 30.08.2016 made in I.A.No.58 of 2016, the present civil revision petition is filed by the petitioner/plaintiff.

8. Heard both sides and perused the materials on record.

9. A reading of the averments made in the affidavit, counter affidavit and Ex.P.3, F.I.R., filed by the petitioner in the typed set of papers shows that the petitioner has not substantiated his case that the respondent has removed the fencing from his property after order of injunction granted by the Court. The injunction has been granted only with regard to the property belonging to the petitioner and the property pertaining to the Highways Department is specifically excluded from the order of injunction.

10. In view of the above, the learned Judge considering all the facts dismissed the application by giving cogent and valid reasons. There is no illegality or irregularity in the order passed by the trial Court warranting interference by this Court.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.06.2017

Index : Yes/No

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To

The District Munsif cum Judicial Magistrate,
Valangaiman.

V.M.VELUMANI, J.

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