

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.3675 and 3676 of 2008

S.Thillainathan

.. Petitioner in
both C.R.Ps'

Vs.

1.A.Vimalan
2.E.Dasaradhan

..
Respondents in C.R.P.No.3675/2008

1.E.Dasaradhan
2.A.Vimalan

.. Respondents
in C.R.P.No.3675/2008

COMMON PRAYER: Civil Revision Petitions filed under Section 115 of C.P.C against the fair and decretal orders dated 19.09.2007 made in C.M.P.Nos.25 of 2004 & 65 of 2006 respectively on the file of the Additional District Judge of Salem (Fast Tract Court No.I, Salem), reversing the fair and decretal order dated 31.03.2004 made in I.A.No.9 of 1994 in I.A.No.1580 of 1991 in O.S.No.808 of 1991, on the file of the Additional Subordinate Judge, Salem.

For Petitioner : Mr.A.Tamilvanan
(in both C.R.P) for M/s.P.Satish

For R1 : Mr.G.Jermiah
(in C.R.P.No.3675/2008)

For R2 : Not ready in notice
(in C.R.P.No.3675/2008)

For R1 : Not ready in notice
(in C.R.P.No.3676/2008)

For R2 : Mr.G.Jermiah
(in C.R.P.No.3676/2008)

COMMON ORDER

These Civil Revision Petitions are filed against the fair and decretal orders dated 19.09.2007 made in C.M.P.Nos.25 of 2004 & 65 of 2006 respectively on the file of the Additional District Judge of Salem (Fast Tract Court No.I, Salem), reversing the fair and decretal order dated 31.03.2004 made in I.A.No.9 of 1994 in I.A.No.1580 of 1991 in O.S.No.808 of 1991, on the file of the Additional Subordinate Judge, Salem.

2. The parties and issues involved in both the Civil Revision Petitions are one and the same. Therefore are disposed of by this common order. सत्यमेव जयते

3. The petitioner, who is one and the same in both the Civil Revision Petition is plaintiff, and first respondent in C.R.P.No.3675 /2008 and second respondent in C.R.P.No.3676/2008 is the defendant in O.S.No.808 of 1991 on the file of the Additional

Subordinate Judge, Salem. The petitioner filed the said suit for recovery of money against the first respondent in C.R.P.No.3675/2008. Along with the suit, he filed I.A.No.1580 of 1991 against the first respondent in C.R.P.No.3675/2008 and The Regional Transport Authority, Dharmapuri, for injunction, restraining the first respondent in C.R.P.No.3675/2008 from transferring the stage carriage permit of the bus No.TN 29/3535, plying on the route salem to Hoganakkal. An exparte injunction was granted on 04.12.1991 till 03.01.1992. On 03.01.1992, the interim injunction granted was stayed in view of the order of this Court made in C.M.P.No.16689 of 1991 in C.R.P.No.3300 of 1991. On 05.03.1993, the learned Judge recorded that this Court on 13.03.1992, dismissed the C.R.P.No.3300 of 1991 and the order was received by the Court on 14.12.1992. The Trial Court ordered notice to the first respondent in C.R.P.No.3675/2008 and adjourned the matter for counter of second respondent in I.A.No.1580 of 1991. The Trial Court adjourned the application on various dates and finally, dismissed the application on 14.09.1994, as the petitioner failed to pay the batta to serve the first respondent in C.R.P.No.3675/2008. Mean while, the petitioner filed I.A.No.9 of 1994 against the respondents to punish them for having committed

contempt of Court for transferring stage carriage permit, while the interim injunction was in force. The respondent submitted that this Court, by the order passed in W.P.No.14604 of 1991, directed the first respondent in C.R.P.No.3675/2008 to dispose the joint petition filed by the second respondent and another for transfer of stage carriage permit. According to the respondents, as per the order of this Court made in Writ Petition, after notice to the second respondent in C.R.P.No.3675/2008, passed orders on the petition filed by the second respondent. According to them, they have not violated the order of injunction. The learned Trial Judge rejected the contentions of the respondents and allowed the application for arrest and detention in Civil prison.

4. Against the said order, the first respondent in C.R.P.No.3675/2008 filed C.M.A.No.25 of 2004 and second respondent in C.R.P.No.3675/2008 filed C.M.A.No.65 of 2006. The learned First Appellate Judge, by the order dated 19.09.2007, allowed both the C.M.As', holding that the respondents, have not violated the order of injunction.

5. Heard the learned counsel appearing for the petitioner as well as the first respondent in C.R.P.No.3675 of 2008/second respondent in C.R.P.No.3676 of 2008 and perused the materials available on record.

6. The suit is of the year 1991. In application No.1580 of 1991, interim injunction was granted on 04.12.1991. The same was stayed in C.M.P.No.16689 of 1991 in C.R.P.No.3300 of 1991. Subsequently, the said C.R.P.No. 3300 of 1991 was dismissed. The Trial Court on 05.03.2013, recorded the dismissal of C.R.P.No.3300 of 1991, but did not grant interim injunction on 05.03.1993. When the dismissal of the Civil Revision Petition was recorded, the second respondent in C.R.P.No.3675/2008 filed W.P.No.14604 of 1991 to direct the first respondent to dispose the petition filed by the second respondent with regard to the route permit. This Court directed the first respondent to pass orders within eight weeks from the date of receipt of a copy of the order passed in W.P.No.14604 of 1991. The first respondent passed order in compliance with the order of this Court in W.P.No.14604 of 1991. Further, there is nothing on record to show that interim injunction which was

suspended by the order dated 03.01.1992 was restored when Trial Court recorded the dismissal of the Civil Revision Petition on 05.03.1993.

7. From the docket order passed in I.A.No.1580 of 1991, it is seen that from 05.03.1993, the application is being adjourned for service of first respondent and counter by second respondent. Finally, the I.A was dismissed on 04.09.1994 for failure on the part of the petitioner to serve the first respondent. In view of the suspension of the interim injunction on 03.01.1991 and that first respondent passed order on transfer application in compliance of the order passed by this Court in W.P.No.14604 of 1991, I hold that the respondents have not violated the order of interim injunction and have not committed contempt of Court. The learned Appellate Authority has considered all these facts and allowed both the appeals filed by the respondents. In the circumstances, there is no irregularity or illegality warranting interference with the order of the learned Appellate authority dated 19.09.2007.

8. In the result, these Civil Revision Petitions are dismissed. No costs. Since the suit is of the year 1991, the learned

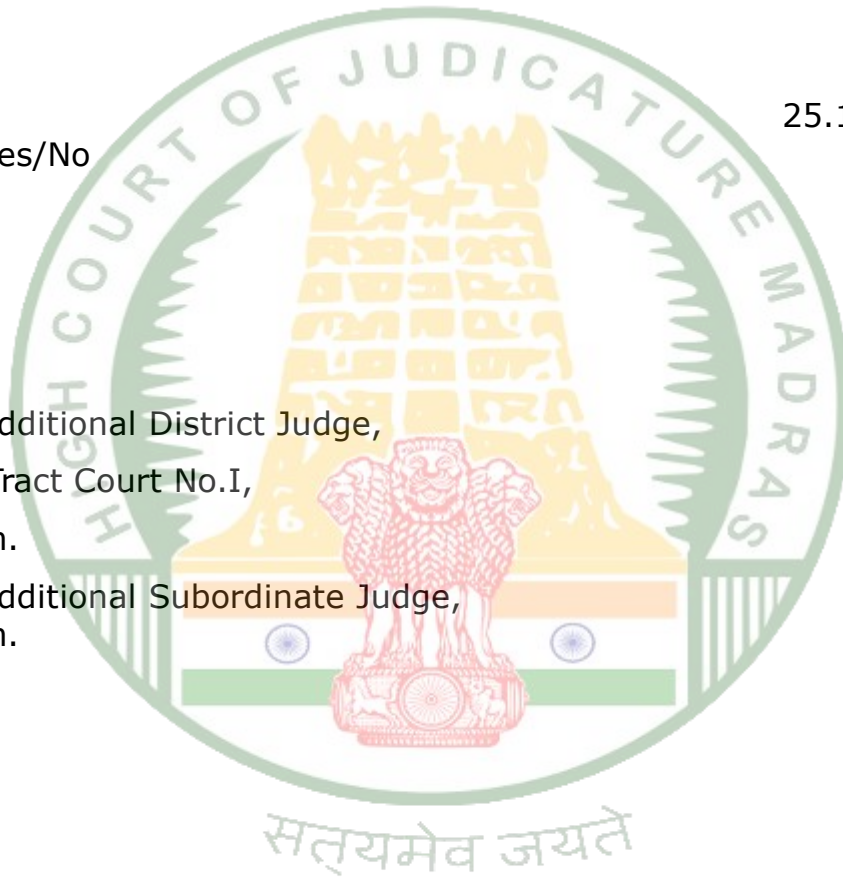
Additional Subordinate Judge, Salem is directed to dispose the suit as expeditiously as possible in any event, not later than two months from the date of receipt of a copy of this order.

25.10.2017

Index: Yes/No
gsa

To

1. The Additional District Judge,
Fast Tract Court No.I,
Salem.
2. The Additional Subordinate Judge,
Salem.



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V.M.VELUMANI,J.

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