

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(PD)No.575 of 2013

N.K.Varghese

.. Petitioner

Vs.

1.Mariyamma
2.N.K.Thomas
3.Susan Joy

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 20.07.2012 made in C.M.A.No.3 of 2012 on the file of the Subordinate Court and Appellate Authority of the Nilgiris at Udhagamandalam, reversing the fair and decretal order dated 10.01.2012 made in I.A.No.404 of 2011 in O.S.No.508 of 2011 on the file of the District Munsif Court, Gudalur.

For Petitioner : Mr.P.B.Balaji

For R1 to R3 : No appearance

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ORDER

This Civil Revision Petition has been filed against the fair and decretal order dated 20.07.2012 made in C.M.A.No.3 of 2012 on the file of the Subordinate Court and Appellate Authority of the Nilgiris at

Udhagamandalam, reversing the fair and decretal order dated 10.01.2012 made in I.A.No.404 of 2011 in O.S.No.508 of 2011 on the file of the District Munsif Court, Gudalur.

2. The petitioner is plaintiff and respondents are the defendants in O.S.No.508 of 2011 on the file of the District Munsif, Gudalur. The petitioner filed the said suit against the respondents for permanent injunction, restraining the respondents from not to interfere with his peaceful possession and enjoyment of the suit property. Along with the suit, the petitioner filed I.A.No.404 of 2011 for an ad-interim injunction. Initially, the interim injunction was granted. By the order dated 10.01.2012, the injunction granted was vacated. The parties were directed to maintain status-quo and are enjoined to interfere with possession if any between each other.

3. Against the said order dated 10.01.2012, the petitioner filed C.M.A.No.3 of 2012. Along with the C.M.A, the petitioner also filed I.A.No.44 of 2012 for filing additional documents. The learned Judge, after considering all the materials on record, set aside the order of status-quo granted by the learned Judge dated 10.01.2012 made in I.A.No.404 of 2011 and dismissed the appeal on the ground that as the suit O.S.No.508 of 2011 is not maintainable under Order 9 C.P.C, the application filed for temporary

injunction is also not maintainable.

4. Against the said order dated 20.07.2012 made in C.M.A.No.3 of 2012, reversing the order dated 10.01.2012 made in I.A.No.404 of 2011 in O.S.No.508 of 2011, the petitioner has filed the present Civil Revision Petition.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record. Though notice is served on the respondents and their names are printed in the cause list, there is no representation either in person or through counsel.

6. From the materials on record, it is seen that the petitioner has filed the suit for permanent injunction against the respondents and filed I.A.No.404 of 2011 for temporary injunction, pending suit. The learned District Munsif, Gudalur, directed the parties to maintain status-quo. Against the said order, the petitioner filed C.M.A.No.3 of 2012. The said appeal was dismissed. The order of status-quo was vacated and I.A.No.404 of 2011 was dismissed. In view of the fact that the relief sought for by the petitioner in the suit is for permanent injunction and relief sought for in I.A.No.404 of 2011 is for temporary injunction and suit is of the year 2011, without

deciding the issue in the Civil Revision Petition on merits, the same is disposed of with a direction to the District Munsif, Gudalur, uninfluenced by the judgment passed in C.M.A.No.3 of 2012 to dispose the O.S.No.508 of 2011 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

7. With the above direction, this Civil Revision Petition is disposed of.
No costs.

Index : Yes/No
gsa

To

1. The District Munsif,
Gudalur.

2. The Subordinate Judge and
Appellate Authority of Nilgiris,
Udhagamandalam.

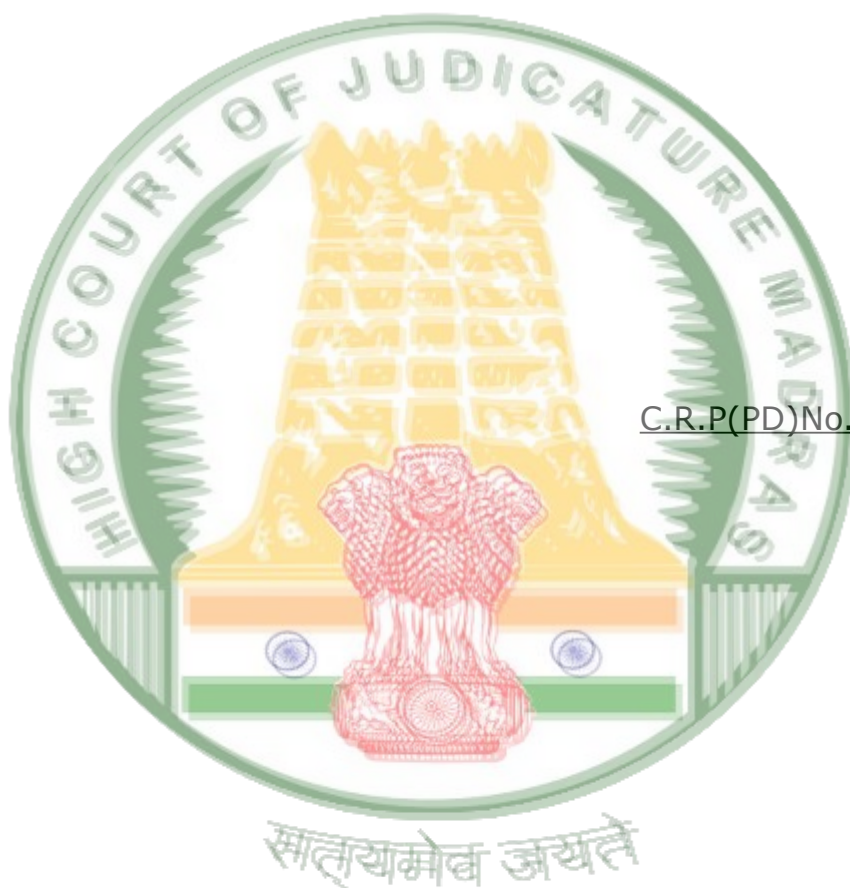


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V.M.VELUMANI, J.

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