



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No.758 of 2017

and

C.M.P.(MD) No.8179 of 2017

1.P.Veldurai
2.A.Murugesan
3.Tamilselvan

... Appellants/Defendants

Vs.

1.Congress Ponvizha Mandapam Trust,
Through its Managing Director,
S.Gopal

2.S.Gopal

... Respondents/Plaintiffs

Prayer: This Civil Miscellaneous Appeal has been filed under Order 43 R 1(r) of the Civil Procedure Code, to set aside the order and decreetal order passed in I.A.No.61/2017 in O.S.No.65/2017 dated 27.07.2017 on the file of the III Additional District Court, Tirunelveli.

For Appellant	: Mr.T.Selvan
For Respondent	: Mr.J.Thomas Raja Durai for R2

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the defendants questioning the grant of injunction by order dated 27.07.2017 in I.A.No.61 of 2017 in O.S.No.65/2017 on the file of III Additional District Judge, Tirunelveli.

2.The first respondent herein is a trust. Admittedly, it is the owner of the second schedule property. The persons mentioned in the first schedule property are described as the trustees of the first respondent trust. The trust is the registered one. According to the respondents herein, the appellants attempted to dispossess the respondents of the suit property. Therefore, injunction was sought by filing I.A.No.61/2017.



3. On the side of the respondents herein, Exs.P1 to P6 were marked. The appellants herein also marked certain documents. On going through the materials on record it can be seen that the suit building had become old and dilapidated. Therefore, the Trust wanted to put up construction in the suit property. The same was also duly approved by the local municipality. The approval granted by the local municipality has been marked as Ex.P6. Admittedly, the appellants herein do not claim that they are owners of the suit building. If they are having any grievance regarding the management of the suit property, they ought to have filed the suit under Section 92 of Civil Procedure Code. It is not open to them to act in a high handed manner to interfere with the possession of the respondents herein. The respondents herein want to proceed with the construction based on the approval given by a statutory body. The same cannot be stopped by the appellants herein. The respondents herein have marked the copies of the trust deeds including amendments made from time to time. Owing to the passing away of the erstwhile trustees, the new trustees were appointed. The Trial Judge was convinced that the respondents herein have made out a prima facie case. Balance of convenience is also in their favour. Irreparable injury would be caused if the appellants herein were not restrained by an order of interim injunction.

4. Therefore applying the settled parameters governing grant of interim order of injunction, the learned Trial Judge allowed I.A.No.61/2017 filed by the respondents herein. If the appellants have any legitimate grievance, it is for them to file appropriate proceedings to ventilate their grievance. They cannot take law into their hands and interfere with the possession and enjoyment of the suit property by the respondents.

5. Therefore, I see no merit in this appeal. This Civil Miscellaneous Appeal stands dismissed. However, a direction is given to the learned Trial Judge to dispose of O.S.No.65/2017 within six months from the date of receipt of a copy of this order. The learned Trial Judge shall dispose of the suit without being influenced by any of the observations made in this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar



To

The III Additional District Court, Tirunelveli.

Copy to:-

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+One cc to Mr.T.S.R.Venkat Ramana, Advocate, SR.No.82735

+One cc to Mr.T.Selvan, Advocate, SR.No.82777

skm

RL/5C/2P/MR/KKR/SAR3/31/10/2017

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