



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.01.2017
CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

C.R.P (MD) No.759 of 2014 (PD) and
MP (MD) .No.1 of 2014

1. State of Tamil Nadu
rep. by its District Collector,
Kanyakumari District,
Nagercoil - 4
 2. The District Supply Officer,
Kanyakumari District, Collectorate Building,
Nagercoil - 4
 3. The Taluk Supply Officer,
Kalkulam Taluk,
Thuckalay Village,
Kanyakumari District. .. Petitioners/Respondents/Defendants
- Vs.**
- K. Chellappan .. Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed, under Section 115 of CPC Code of Civil Procedure, to set aside the order and decreetal order dated 14.02.2014 in E.P.No.28 of 2013 in O.S.No.227 of 2010 on the file of the Principal District Munsif, Padmanabhapuram.

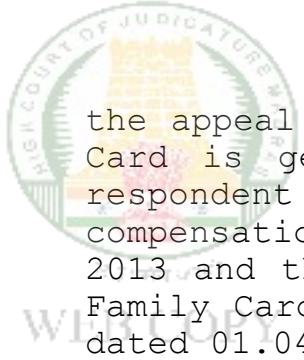
For Petitioners : Mr. K. Maheshraja, Government Advocate
For Respondent : Mr. R. Vijayakumar

ORDER

The petitioners have filed this Civil Revision Petition to set aside the fair and decreetal order dated 14.02.2014 in E.P.No.28 of 2013 in O.S.No.227 of 2010 on the file of the Principal District Munsif, Padmanabhapuram.

2. The petitioners are respondents in E.P.No.28 of 2013 and defendants in O.S.No.227 of 2010 on the file of the Principal District Munsif, Padmanabhapuram. In the Judgement and decree dated 25.06.20102 in O.S.No.227 of 2010, the trial Court held that Family Card being numbered 30/G/0271174 issued by the petitioners to the respondent is genuine and respondent is entitled to get ration articles from July 2012 and a sum of Rs.10,000/- was awarded as compensation.

3. The petitioners filed A.S.No.76 of 2012 on the file of the Sub Court, Padmanabhapuram. The First Appellate Court partly allowed



the appeal setting aside the finding of the Trial Court that Family Card is genuine. The first appellate Court confirmed that the respondent is entitled to get ration articles from July 2012 and for compensation of Rs. 10,000/-. The respondent filed S.A.No.668 of 2013 and the same is pending. The petitioners have also issued new Family Card on 01.04.2013, as per the application of the respondent dated 01.04.2013.

4. The respondent filed E.P.No.28 of 2013 to attach the movables from the third petitioner's office to execute the mandatory injunction, directing the petitioners to supply the ration articles from July 2012.

5. The petitioners filed counter affidavit and stated the pendency of second appeal in this Court and the fact that First Appellate Court has held that earlier Family Card No. 30/G/0271174 is not genuine one and new Ration Card dated 01.04.2013 issued and food products are supplied to the respondent and there is no latches on the part of the petitioners in the matter.

6. The learned Judge by Judgment dated 31.01.2013 ordered attachment of movables from the office of the third petitioner.

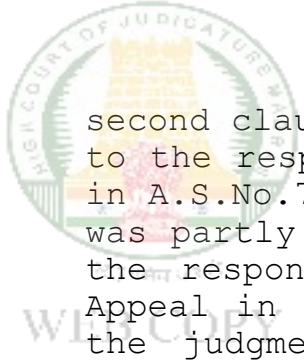
7. Against the said order, present Civil Revision Petition has been filed.

8. The learned counsel appearing for the petitioners submitted that the learned Judge failed to see the pendency of the Second Appeal filed by the respondent and also the Judgment dated 31.01.2013 passed in A.S.No.76 of 2012. The learned Judge without considering the fact that the new Family Card dated 01.04.2013 has been issued to the respondent and they are supplying the goods regularly from 01.04.2013 and therefore, is not correct in ordering attachment of movables. The learned counsel appearing for the petitioners submitted that if the respondent produced ration card, the petitioners will supply the additional sheet and food articles to the respondent regularly.

9. The learned counsel appearing for the respondent submitted that as per the Judgment of the trial Court dated 25.06.2012 the petitioners must supply the food products from 01.07.2012. The petitioners deliberately did not supply and despite the decree and therefore, the respondent has filed Execution Petition and the learned Judge has rightly ordered order of attachment and the same is valid and prayed for dismissal of this petition.

10. I have heard the learned counsels appearing on either side and perused the materials available on record.

11. As per the Judgement dated 25.06.2012 in O.S.No.227 of 2010 on the file of the Principal District Munsif, Padmanabhapuram, passed by the trial Court, filed by the respondent, as per the



second clause of decree, the petitioners must supply ration articles to the respondent from July 2012. Petitioners have filed an appeal in A.S.No.76 of 2012 and by the Judgment dated 31.03.2013 the appeal was partly allowed. The petitioners have issued new Ration Card to the respondent on 01.04.2013. The respondent also filed Second Appeal in S.A.No.668 of 2013. The learned Judge has not considered the judgment passed by the First Appellate Court. Further, the petitioners have also issued new Ration Card on 01.04.2013. The respondent has not produced any evidence to show that the petitioners failed to supply the ration articles as per the decree.

12. In view of these facts that petitioners issued new Ration card on 01.04.2013, the Execution Petition to enforce mandatory direction to supply the ration articles by attaching property is not maintainable. I hold that the learned Judge erred in ordering attachment of the movables belonging to the third petitioner. The learned Judge committed material irregularity by exceeding his jurisdiction.

13. In the circumstances, the Civil Revision Petition is allowed. The order of attachment is set aside. If order is effected, the same is revoked by this order and movables are directed to be returned to the third petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Munsif, Dindigul.
2. The District Collector,
Kanyakumari District, Nagercoil - 4
3. The District Supply Officer,
Collectorate Building,
Nagercoil, Kanyakumari District.
4. The Taluk Supply Officer,
Kalkulam Taluk, Thuckalay Village,
Kanyakumari District.

+ 1 CC TO Mr.R.VIJAYAKUMAR, ADVOCATE IN SR No. 2186

TRP

TE/MR : 24/03/2017 : 3P/6C