



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.144 of 2017 (PD)

and

C.M.P (MD) No.533 of 2017

Karuppasami

.. Petitioner/ 4th Respondent/4th Defendant

Vs.

1.V.Selvi

2.Minor Muthusamy

rep. Through his mother and
next friend V.Selvi

W/o.Late. Velusamy Gounder,

Ramanathan Nagar,

Balagamuthram Road,

Palani Town, Palani Taluk.

...Respondents 1 & 2/Petitioners/
Plaintiffs

3.V.Chiththaththal

4.Mayilaathaali

... Respondent 3 & 4/Respondent 1 & 2/
Defendant 1 & 2

PRAYER: Civil Revision Petition is filed, under Section 115 of the Civil Procedure Code, to call for the records of order passed in E.P.No.2 of 2013 in O.S.No.371 of 1999 on the file of the District Munsif, Palani and set aside the order passed in E.P.No.2 of 2013 in O.S.No.371 of 1999, dated 11.03.2016 on the file of the District Munsif, Palani by allowing the present civil revision petition.

For Petitioner : Mr.K.Muraleedharan

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order passed in E.P.No.2 of 2013 in O.S.No.371 of 1999, dated 11.03.2016 on the file of the District Munsif, Palani.

2.The petitioner is the fourth respondent in the E.P.No.2 of 2013. The respondents 1 and 2 are the plaintiffs. The respondents filed suit in O.S.371 of 1999 before the District Munsif, Palani for declaration that the suit property belongs to the plaintiffs and for injunction restraining the defendants and their men from enjoying



the peaceful possession of the suit property and not to alienate the suit property by the defendants or their men. After contest, suit was decreed. The Respondents 1 and 2/plaintiffs filed E.P.No.2/2013 before the District Munsif, Palani to arrest the petitioner and respondents 3 and 4 for committing the contempt of judgment of Court, dated 22.07.2005 made in O.S.No.371 of 1999 as they disobeyed the said judgment. The petitioner and third respondent filed counter and submitted that first respondent was divorced by her husband Late.Veluchamy Gounder. He settled certain properties on respondents 1 & 2. After that, he married third respondent. After death of Late. Veluchamy Gounder, the petitioner and fourth respondent purchased the property from the third respondent herein by two sale deeds, dated 01.06.2000 and they are in possession and enjoyment of the property. They can be evicted only by the order of the Court. They have not disobeyed the judgment of the Court and not committed any contempt. The petitioner was examined as R.W.1 and deposed that the judgments are not binding on him and petitioner is not bound to obey the judgment.

3.The learned Judge considered the judgment of trial Court as well as the appellate Court wherein declaration granted to respondents 1 and 2 and relief of injunction was rejected, but on first appeal in A.S.No.31 of 2006 by the respondents 1 & 2, the appellate Court granted relief of injunction also. Considering the materials on record and evidence of the petitioner, the learned Judge ordered arrest.

4.Against the said order of arrest, the petitioner has filed the present Civil Revision Petition.

5.The learned counsel for the petitioner submitted that the learned Judge failed to see that the petitioner purchased the property by the two sale deeds, dated 01.06.2000 and from that date, he is in possession and enjoyment of the suit property. The trial Court did not grant relief of injunction to respondents 1 and 2. The respondents 1 and 2 can evict the petitioner only by filing the suit for recovery of possession not by filing E.P., for arrest. The petitioner purchased the property on 01.06.2000 prior to the judgement of the trial Court, dated 22.07.2005 and appellate Court judgment, dated 8.8.2007 and therefore, he has not committed any contempt.

6.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

7.The respondents 1 and 2 filed suit for declaration of title and injunction. The trial Court by the judgment, dated 22.07.2005 granted only decree of declaration and rejected relief of injunction. On appeal by the respondents 1 and 2, the first appellate court granted decree of injunction also. The petitioner did not file any appeal against the judgment of first appellate



Court. Therefore, the judgments have become final. The respondents 1 and 2 are owners and they are in possession and they are entitled to injunction as per the judgment, against the petitioner. The contention of the learned counsel for the petitioner that the petitioner is in possession of the suit property from 01.06.2000 as owner and therefore E.P., for arrest is not maintainable and respondents 1 and 2 must obtain a decree for possession are untenable. The trial Court granted decree of declaration declaring that respondents 1 and 2 are owners. The appellate Court granted decree of injunction in favour of respondents 1 and 2. In the evidence, the petitioner has stated that he is not bound by the judgment of the trial Court and as well as by the appellate Court, in view of the fact that he purchased the property before the decree. This statement of the petitioner clearly shows his disobedience of the judgment and that committed contempt. The learned Judge has considered this aspect in proper perspective and has exercised his power conferred on him by ordering arrest of the petitioner. In the circumstances, there is no illegality or irregularity warranting interference by this Court.

8. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Palani.

AM
TE/SV-MMS : 07/02/2017 : 3P/2C

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