



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.299 of 2017 (PD)

Ganesan

.. Petitioner/Petitioner/1st Plaintiff

Vs.

1.Commissioner,
Tirunelveli City Municipal Corporation
Tirunelveli Swamy Nellaippar High Road,
Tirunelveli.

2.Assistant Commissioner,
Tirunelveli City Municipal Corporation
Melapalayam Zone,
Tirunelveli.

.. Respondents/Respondents/
Defendants 1 & 2

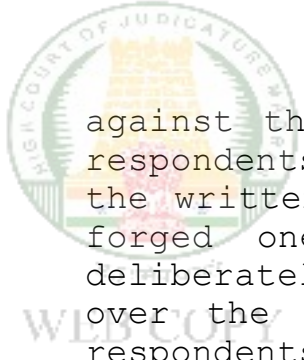
PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the docket order made in I.A.Sr.No.149 of 2016 in O.S.No.499 of 2013 on 24.01.2017 on the file of the learned Principal District Munsif Court, Tirunelveli and direct the lower Court to number the I.A., and allow this Civil Revision Petition.

For Petitioner : Mr.M.S.Suresh Kumar
For Respondents : Mr.Aaiyram K.Selvakumar

ORDER

This petition has been filed by the petitioner to set aside the docket order made in I.A.Sr.No.149 of 2016 in O.S.No.499 of 2013 on 24.01.2017 passed by the learned Principal District Munsif, Tirunelveli and direct the lower Court to number the I.A.,

2.The petitioner is the first plaintiff. The respondents are defendants 1 & 2. The petitioner/first plaintiff filed a suit in O.S.No.499 of 2013 for injunction restraining the respondents not to interfere with his peaceful possession and enjoyment of the suit property. The respondents filed written statement. The petitioner filed an application in I.A.Sr.149 of 2016 under Section 340 of the Criminal Procedure Code to take criminal action



against the respondents 1 & 2. According to the petitioner, the respondents mentioned certain documents in the affidavit and in the written statement knowing fully well that those documents are forged one and they do not exist. The respondents 1 & 2 deliberately mentioned those documents in order to claim title over the suit property when they do not have any title. The respondents 1 & 2 have made false statement only to prevent the petitioner to implement the decree that may be passed in his favour.

3.The learned Judge returned the said I.A., as not maintainable on the ground that the parties have not filed and marked any documents. Only when the documents are marked, the Court can decide the genuineness of the documents.

4.Against the said return, the petitioner has come out with the present Civil Revision Petition.

5.The learned counsel for the petitioner reiterated the averments made in the affidavit and grounds of Revision and submitted that the petitioner has made out prima facie case for initiating the criminal proceedings against the respondents to punish them.

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

7.The grievance of the petitioner is that the respondents 1 & 2 have filed written statement with false averments and mentioned forged documents which do not exist and they committed an offence punishable under Provisions of Indian Penal Code. The documents mentioned in the affidavit and written statements are yet to be filed and genuineness of the documents are yet to be decided. The petitioner filed suit for injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit properties. In the circumstances, it is for the petitioner to prove his possession by letting in acceptable evidence. In the circumstances, the learned Judge has rightly returned the I.A.SR.No.149 of 2016 and there is no illegality or irregularity in the return of the I.A., warranting interference by this Court.

8.In the result, the Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar



am
To
The Principal District Munsif,
Tirunelveli.

+1CC to Mr.Aaiyram K.Selvakumar, Advocate Sr.No.8494
+1CC to Mr.M.S.Suresh Kumar, Advocate Sr.No.8405

GJM/MR/SAR-2-6.3.17-3p-4C

C.R.P (MD) No.299 of 2017 (PD)
15.02.2017