



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.01.2017

CORAM:

WEB COPY

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P(MD)No.2601 of 2016 (NPD)

and

C.M.P(MD)No.12261 of 2016

Justin Sundar

.. Petitioner/Petitioner/Plaintiff

Vs.

1.Subramanian @ Samson

2.Baby

.. Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition is filed, under Section 115 of Civil Procedure Code, against the partly allowed order of the Learned Principal District Munsif, Nagercoil, Kanyakumari District, dated 20.10.2016 made in E.P.No.45 of 2015 in O.S.No.539 of 2010.

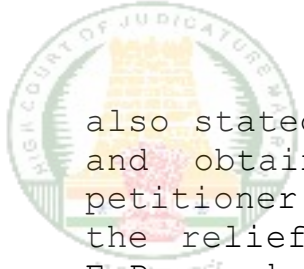
For Petitioner : Mr.S.Palani Velayutham

ORDER

This petition has been filed by the petitioner against the order of the Learned Principal District Munsif, Nagercoil, Kanyakumari District, dated 20.10.2016 made in E.P.No.45 of 2015 in O.S.No.539 of 2010.

2.The petitioner is the plaintiff in O.S.No.539 of 2010 on the file of the Principal District Munsif, Nagercoil and petitioner in E.P.No.45 of 2015. The respondents are the defendants. The petitioner filed suit in O.S.No.539 of 2010 against the respondents, for permanent injunction restraining the respondents from interfering with his peaceful possession and enjoyment of the suit property. The said suit was decreed on 31.01.2011. The petitioner filed E.P.No.45 of 2015 stating that the respondents, in violation of decree of permanent injunction passed in his favour, are disturbing his peaceful possession and enjoyment of the property. Therefore, he prayed for fixing the boundaries and for police protection for enforcing the decree of permanent injunction.

<https://hcservices.courts.gov.in/hcservices/>
3.The respondents opposed the said E.P., and submitted that they have not interfered with the possession of the petitioner and



also stated that the petitioner's brother filed O.S.No.541 of 2010 and obtained decree of permanent injunction restraining the petitioner from interfering with his usage of pathway. Therefore, the relief sought for by the petitioner is not maintainable in E.P., and prayed for dismissal of the E.P.

4.The first respondent examined himself as R.W.1 and marked 5 documents as Ex.B1 to Ex.B5. The first respondent deposed that the respondents are not interfering with the possession of the petitioner.

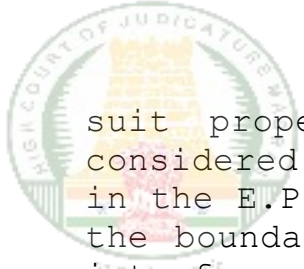
5.The learned Judge considering all the materials on record, decree passed in O.S.No.539 of 2010 in favour of the petitioner, evidence and documents produced by the respondents rejected the prayer of the petitioner for demarcating the boundaries of the property, granted police protection for enforcing the decree of permanent injunction.

6.Against the portion of the prayer rejecting the claim of the petitioner for demarcating the suit property, the petitioner has filed the present Civil Revision Petition.

7.The learned counsel appearing for the petitioner submitted that the learned Judge ought to have allowed the E.P., granting both the prayer sought for by the petitioner. Having granted relief of Police Protection for enforcing the decree of permanent injunction, the learned Judge failed to grant the relief of demarcating the boundaries.

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

9.From the materials on record, it is seen that the petitioner filed suit in O.S.No.539 of 2010 for permanent injunction and the suit was decreed as prayed for granting permanent injunction in favour of the petitioner against the respondents. The petitioner has filed E.P.No.45 of 2015 for demarcation of boundaries and for police protection for enforcing the decree of permanent injunction. According to the petitioner, the respondents are interfering with his peaceful possession and enjoyment of the suit property. On the other hand, the respondents have denied the allegations of the petitioner stated that they are interfering with his peaceful possession and enjoyment of the property. The petitioner has not furnished any particulars as to when the respondents destroyed the boundaries of the suit property as existed at the time of filing the suit and when they interfered with his possession and enjoyment of the suit property. In the circumstances, the learned Judge considered the nature of the decree passed in favour of the petitioner and the fact that the petitioner has not produced any evidence to substantiate his case <https://hcservices.cemsa.gov.in/services/> the boundaries of the property as well as the petitioner has not disputed the evidence of the respondents that they are not interfering with his possession and enjoyment of the



suit property by letting in evidence. The learned Judge has considered all the materials in proper perspective, passed order in the E.P., rejecting the claim of the petitioner for demarcating the boundaries. There is no illegality or irregularity warranting interference by this Court.

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

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Nagercoil, Kanyakumari District.

+1 cc to M/s.S.Palani Velayutham, Advocate in SR.No.169

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CSL/SS-2-KSM/24.01.2017 :3P/3C

C.R.P (MD) No.2601 of 2016 (NPD)
02.01.2017