

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CRP.PD.Nos.271 & 399 of 2017

and

CMP.No.1179 of 2017

P.Arunkumar

.. Petitioner in both CRPs.

Vs

1.P.Allirani

2.P.Anu Valentina

3.P.Amarnath

.. Respondents in both CRPs.

PRAYER in CRP(PD)No.271 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 29.06.2015 made in CMA.No.13 of 2010 on the file of the Principal Sub Court, Coimbatore confirming the fair and decretal order dated 17.03.2009 made in I.A.No.1740 of 2008 in O.S.No.1553 of 2008 on the file of the Principal District Munsif Court.

PRAYER in CRP(PD)No.399 of 2017: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 29.06.2016 made in I.A.No.357 of 2015 in CMA.No.13 of 2010 on the file of the Principal Sub Court, Coimbatore.

For Petitioner : Mr.K.S.Karthik Raja

For Respondents : Mr.K.Raja

COMMON ORDER

CRP.PD.No.271 of 2017 has been filed to set aside the order passed by the learned Principal Sub Court, Coimbatore in CMA.No.13 of 2010 on the file of the Principal Sub Court, Coimbatore dated 29.05.2015 confirming the fair and decretal order dated 17.03.2009 made in I.A.No.1740 of 2008 in O.S.No.1553 of 2008 on the file of the Principal District Munsif Court, Coimbatore.

CRP.PD.No.399 of 2017 has been filed to set aside the order passed by the learned Principal Sub Court, Coimbatore in I.A.No.357 of 2015 in CMA.No.13 of 2010 on the file of the Principal Sub Court, Coimbatore.

2. The plaintiff in O.S.No.1553 of 2008 on the file of the Principal District Munsif Court, Coimbatore, is the revision petitioner herein.

3. According to the learned counsel for the petitioner, the petitioner herein has filed a suit in O.S.No.1553 of 2008 seeking permanent injunction. In the aforesaid suit, the petitioner has filed the application in I.A.No.1740 of 2008 seeking interim injunction and the same was allowed. Thereafter, the petitioner has filed the appeal in CMA.No.13 of 2010 to set aside the order in I.A.No.1740 of 2008. Subsequently, the petitioner has also filed the application in I.A.No.357 of 2015 to permit the petitioner to putforth six additional documents. It is further submitted that on the date of filing the suit, the petitioner was only in occupation of front portion of the suit property. Subsequently, after hearing the arguments of both sides, the Trial Court came to the conclusion that except an extent of 300 sq.ft.occupied in the possession of the second respondent and other properties are in the occupation of the petitioner. Even, the trial court has passed an interim injunction and also vacated the rooms allotted to have been occupied by the respondents. The trial Court has dismissed both the appeal and the interlocutory application. Feeling aggrieved by the said orders, the petitioner has filed the present civil revision petitions before this Court.

4. The learned counsel for the petitioner would submit that the petitioner has got the document and E.B connection in his name and he also

produced the bills for the same. Hence, the impugned order passed by the Trial Court is liable to be set aside.

5. According to the learned counsel for the respondent, the second respondent is in possession and occupation of two rooms in the rear side of the suit property and is still running her office in those rooms. The petitioner has not established her possession in the said rooms. Hence, these petitions prays for dismissal.

6. Heard the learned counsel for both sides and perused the materials available on record.

7. It is seen from the records that there is no title dispute in this case, only with reference to except two rooms, the petitioner who is in occupation in the said rooms. The petitioner has not established through available documents that the petitioner is in exclusive possession of other two rooms also. The documents produced by the petitioner are not sufficient to prove his exclusive possession in the said rooms also. Therefore, the matter has to be decided in the suit after recording oral and documentary evidence. No specific documents have been produced by the petitioner. Electricity Bill had issued in the name of the petitioner and the same will not be a sole ground to

set aside the order passed in civil Miscellaneous appeal and in I.A.No.357 of 2015 in C.M.A.No.13 of 2010 on the file of Principal Sub-Court, Coimbatore. Therefore, there is no perversity or illegality in the order of the learned trial Judge warranting interference by this Court.

8. In view of the above, these civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed. Since the suit is in the year of 2008, the trial Court is directed to dispose the case as early as possible.

20.04.2018

Index : yes/No
Internet : yes/No
Speaking : Non Speaking order
kkd

To

1.The Principal District Munsif Court,
Coimbatore.

2.The Principal Sub Court,
Coimbatore.

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P.VELMURUGAN,J.

kkd



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