

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.04.2018

CORAM

The Hon'ble Mr.Justice **P.VELMURUGAN**CRP(PD).No.2928 of 2017 &
C.M.P.No.13803 of 2017

1.S.P.Rotary Prints
Rep by its Partners,
5/13 A3, Chettiar Thottam,
Avinashiligampalayam,
Pazhankarai Post,
Avinashi - 641 654,
Tiruppur District.

2.P.Somasundaram
3.C.Dhanasekar
4.C.Karunambal
5.S.Selvarani

.. Petitioners

vs.

1.M/s.Ruby Textiles Processing Mills,
By its Partner, R.Udayachandrika,
W/o.Radhakrishnan,
13, Selvapuram,
Thennampalayam,- 641 604.

2.R.Udhayachandrika

सत्यमेव जयते

.. Respondents

Civil Revision Petition filed under Section 115 of CPC, to set aside the fair and decretal order dated 13.07.2017 made in C.M.A.No.8/2017 made by the II Additional District Court, Tiruppur, and to restore the fair and decretal order dated 03.02.2017 made in I.A.No.563 of 2016 in O.S.No.494 of 2016 on the file of Additional Sub Court, Tiruppur.

For Petitioners ... M/s.Akhil Akbar Ali

For Respondents ... Mr.V.P.Sengottuvel

ORDER

The Civil Revision Petition has been filed by the petitioners against the order in I.A.No.563 of 2016 in O.S.No.494 of 2016 on the file of Additional Sub Court, Tiruppur.

2. The learned counsel for the petitioner would submit that the scheduled property was purchased during the year 2000 by the respondent firm, which was formed under partnership having four partners during 1999. One of the partners by name Mr.Mani relinquished his share in favour of the remaining partners and retired from the firm on 30.05.2011. Thereafter, the remaining three partners entered into partnership deed on 01.06.2011 and continued the business. As such the property of the firm was leased out in favour of third parties to mitigate the losses to carry on the business. O.S.No.343 of 2016 is re-numbered as O.S.No.101 of 2017. The petitioner has taken possession of the property and originally filed the suit in O.S.No.494/2016, in which they have filed the application in I.A.No.563 of 2016 seeking an order of interim injunction. The trial

Court has granted an order of interim injunction against the respondent and subsequently challenged by the respondent before the Appellate Court. The Appellate Court in C.M.A.No.8 of 2017, set aside the order passed by the trial Court. Aggrieved against the same, the revision petition has been filed.

3.It is not in dispute that the property belongs to a partnership firm. Petitioners are partners of the said firm. Admittedly, the partnership firm is registered firm and same is in existence. Even though the lease deed indicates a period of more than eleven months and the same is not admissible in evidence, the said contention can be raised and decided at the time of trial, but not at this stage. However, though respondents have admitted possession, no injunction can be granted against true owners. Therefore no illegality or infirmity in the order passed by the first appellate Court and there is no reason to interfere the order passed by the first appellate Court.

4. Hence, this Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

09.04.2018

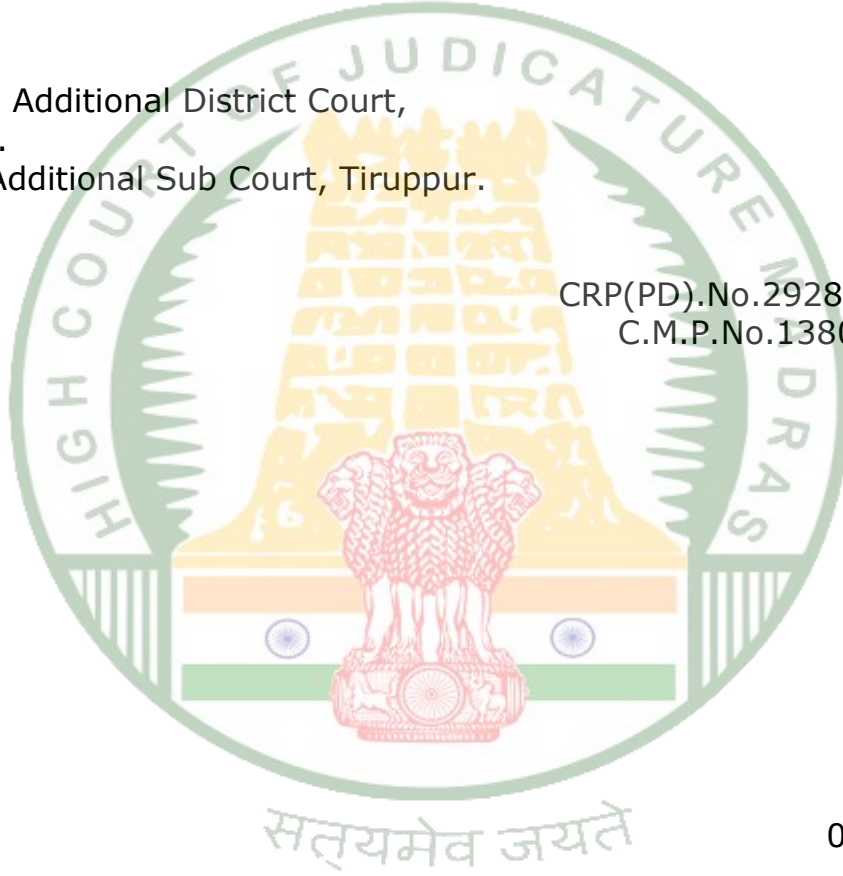
ub

P.VELMURUGAN.J,
ub

To

1. The II Additional District Court,
Tiruppur.
2. The Additional Sub Court, Tiruppur.

CRP(PD).No.2928 of 2017 &
C.M.P.No.13803 of 2017



09.04.2018

WEB COPY