

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1025 of 2015 and
M.P.No.1 of 2015

N.Chellappa

.. Petitioner

Vs.

1.Saroja
2.Neelakandan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 13.11.2014 made in I.A.No.689 of 2014 in O.S.No.1850 of 2009 on the file of the III Additional District Munsif Court, Coimbatore.

WEB COPY

For Petitioner : No appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal

order dated 13.11.2014 made in I.A.No.689 of 2014 in O.S.No.1850 of 2009 on the file of the III Additional District Munsif Court, Coimbatore.

2. The petitioner is first defendant and respondents are the plaintiffs in O.S.No.1850 of 2009 on the file of the III Additional District Munsif Court, Coimbatore. The respondents filed the said suit for permanent injunction against the petitioner. The petitioner filed written statement and is contesting the suit. P.W.1 was examined in chief on behalf of the respondents on 10.09.2014. The petitioner took time for cross-examination of P.W.1. After taking time to cross-examine P.W.1, petitioner has filed present application I.A.No.689 of 2014 for permission to file additional written statement.

3. According to the petitioner, after filing of the written statement, the respondents have vacated the suit premises and handed over the possession to the petitioner. The petitioner is in possession and enjoyment of the suit property and the suit premises is in dilapidated condition. The respondents have handed over the

suit property after filing written statement. In view of the same, the petitioner may be permitted to file additional written statement setting out the above facts.

4. The respondents filed counter affidavit and denied all the averments made in the application. According to the respondents, they are in possession and enjoyment of the suit property. The petitioner is not residing in the suit property, which can be seen from the address given in the affidavit.

5. The learned Judge by order dated 13.11.2014 considering the fact that in the chief examination of P.W.1 on 10.09.2014, P.W.1 has stated that the respondents are in possession of the suit property and the petitioner has filed present application on 19.09.2014 and considering the photographs marked as Exs.P1 to P6 and Ex.P7/receipt, held that the photographs taken on 15.09.2014 would show that the possession would have handed over between 10.09.2014 and 15.09.2014. In the counter affidavit, the respondents have denied that they handed over the possession to the petitioner and dismissed the application.

6. Against the said order of dismissal dated 13.11.2014 made in I.A.No.689 of 2014 in O.S.No.1850 of 2009, the present Civil Revision Petition is filed by the petitioner/first defendant.

7. This Civil Revision Petition is pending from the year 2015. When the Civil Revision Petition was taken up for hearing on 07.02.2018, there was no representation for the petitioner and hence, the matter was directed to be posted today. Today also, there is no representation for the petitioner.

8. From the materials available on record, it is seen that the respondents filed the said suit for permanent injunction. It is for the respondents to prove their possession by letting in acceptable evidence in order to obtain the relief sought for in the suit. Further, in the counter affidavit filed in the present application, the respondents have denied that they handed over the possession to the petitioner. In view of the specific contention of the respondents, the additional written statement sought to be filed by the petitioner is unnecessary. The learned Judge appreciating these facts rightly

dismissed the application. There is no illegality or irregularity warranting interference by this Court with the order of the learned Judge dated 13.11.2014.

9. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.02.2018

Index:Yes/No

kj

To

III Additional District Munsif, Coimbatore.



WEB COPY

V.M.VELUMANI,J.

kj



C.R.P.(PD)No.1025 of 2015 and
M.P.No.1 of 2015

09.02.2018

WEB COPY