

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.133 of 2015 and 4603 of 2014
& M.P.Nos.1 of 2015 and 1 of 2014

Muniyappa @ Musilappa

.. Petitioner in
C.R.P.No.133/2015

1.Munivenkatappa
2.Muniraj
3.Chandran @ Munichandra
4.Narayanasway

.. Petitioners
in C.R.P.No.4603/2014

Vs.

1.M/s.Champion land zone pvt, Ltd.,
Represented by its director Mrs.Hemamalini Nidamanuri,
Office at JS Towers,
L.32, 2nd A-Main Road,
HSR Layout, 6th Sector,
Outer Ring Road,
Agara,
Bangalore 560 102.

2.Munivengadappa
3.Muniraj
4.Chandran @ Munichandra
5.Narayanaswamy
6.Srinivas @ Ganesh
7.Ramesh @ Amaresh
8.Muniramappa
9.Muniyappa
10.Muni Krishnan

.. Respondents in
C.R.P.No.133/2015

1.M/s.Champion land zone pvt, Ltd.,

Represented by its director Mrs.Hemamalini Nidamanuri,
Office at JS Towers,
L.32, 2nd A-Main Road,
HSR Layout, 6th Sector,
Outer Ring Road,
Agara,
Bangalore 560 102.

2.Muniappa @ Musilappa

3.Srinivas @ Ganesh

4.Ramesh @ Amaresh

5.Muniramappa

6.Muniappa

7.Munikrishnappa

.. Respondents in
C.R.P.No.4603/2014

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 26.11.2014 made in I.A.No.103 of 2014 in I.A.No.83 of 2014 in O.S.No.30 of 2014 on the file of the Sub Court, Hosur.

(In C.R.P.No.133/2015)

For Petitioner : Mr.D.J.Venkatesan

For R1 : Mr.V.R.Shanmuganathan
for Mr.T.Panchatsalam

For R2 to R10 : No appearance

(In C.R.P.No.4603/2014)

For Petitioners : Mr.R.Jayaprakash

For R1 : Mr.V.R.Shanmuganathan
for Mr.T.Panchatsalam

For R2 to R7 : Given up

COMMON ORDER

Petitioners in both the Civil Revision petitions are challenging the very same order dated 26.11.2014 made in I.A.No.103 of 2014 in I.A.No.83 of 2014 in O.S.No.30 of 2014 on the file of the Sub Court, Hosur.

2.The petitioners in C.R.P.No.4603 of 2014/respondents 2 to 5 in C.R.P.No.133 of 2015 are defendants 1 to 4, petitioner in C.R.P.No.133 of 2015/2nd respondent in C.R.P.No.4603 of 2014 is the 5th defendant, first respondent in both the Civil Revision Petitions is the plaintiff and respondents 6 to 10 in C.R.P.No.133 of 2015/respondents 3 to 7 in C.R.P.No.4603 of 2014 are the defendants 6 to 10 in O.S.No.30 of 2014 on the file of the Sub Court, Hosur. The first respondent in both the Civil Revision Petitions filed the said suit for permanent injunction restraining the petitioners and other defendants from trespassing and interfering with the peaceful possession and enjoyment of the first respondent and to pay a sum of Rs.1,00,000/- as damages to the first respondent. Along with the suit, the first respondent filed I.A.No.83 of 2014 for interim injunction pending suit. Initially, interim injunction was granted on 20.02.2014. The petitioners filed petition

to raise injunction. By the order dated 26.11.2014, the interim injunction granted on 20.02.2014 in I.A.No.83 of 2014 was made absolute. According to the first respondent, when they wanted to fence the suit property, other defendants tried to prevent first respondent from fencing the same. The first respondent approached the concerned police seeking for police protection. The police informed the first respondent to obtain necessary orders from Court. In the circumstances, the first respondent filed I.A.No.103 of 2014 for police protection.

3.The petitioners and defendants 6 to 9 filed common counter affidavit and contended that the first respondent is seeking police aid only to grab the property of the petitioners and other defendants and not to protect the property and prayed for dismissal of the application.

4.The learned Judge considering the averments in the affidavit, counter affidavit, materials on record and order of the learned Judge made in I.A.No.83 of 2014, allowed the application.

5.Against the said order dated 26.11.2014 made in I.A.No.103 of 2014 in I.A.No.83 of 2014 in O.S.No.30 of 2014, the petitioners

have come out with the present two Civil Revision Petitions.

6.The learned counsel appearing for the petitioners separately contended that the suit property is agricultural property and first respondent purchased the property from the power of attorney of the petitioners. No possession was handed over to the first respondent. Already a suit in O.S.No.236 of 2013 has been filed against the respondents for partition and the said suit is pending. The present order is beyond the scope of the relief sought for in the suit. The first respondent is trying to grab the property by obtaining police aid. In view of the same, the petitioners have come out with the present application and prayed for setting aside the said order.

7.The learned counsel for the petitioners in support of his contentions, relied on the judgment reported in **2006 (2) CTC 211 (Abdul Sukhure Bhai Vs. Durai Kuppaswamy):**

"13.The lower Courts are frequently confronted with the question of issuing police protection. Since the issuance of police aid is often raised in one way or other, by the lower Court it is appropriate to issue the following guide lines:

- *In appropriate cases, Civil Court has the power to issue suitable directions to police officials as*

servants of law to extend their aid and assistance in the execution of decrees and orders of Civil Courts or in implementing an order of injunction passed by it.

- *Ordering police protection has got serious consequences, impinging on the rights of the parties.*
- *Police aid is not to be granted simultaneously with an order of injunction.*
- *In cases where the lower Courts order police protection/police aid in the execution of decrees and orders of the Civil Courts or in implementing an order of injunction passed by it, the Court is to record reasons as to how and why the case is the appropriate case to order police aid and for what purpose the police aid is ordered.*
- *Police protection/police aid may not be ordered by a non-speaking order. Order of Court for police aid might give room for the parties to take law into their own hands. The party having the order of Court for police aid, might try to disturb the status quo either by trying to take possession or trying to dispossess the opponent.*
- *Order of the Court for police protection is to specifically indicate in precise terms the purpose for which police protection is ordered."*

8.Per contra, the learned counsel for the first respondent

contended that initially the interim injunction was granted by the order dated 20.02.2014 against the petitioners and other defendants not to interfere with the peaceful possession and enjoyment of the property. When the first respondent was taking steps to fence the property, the petitioners in violation of order of injunction, prevented the first respondent from fencing the property. The first respondent sought for police protection for fencing the suit property. The concerned police informed the first respondent to get orders from the Court. Subsequently, by the order dated 26.11.2014, the learned Judge made interim injunction absolute after hearing the parties and after being satisfied with the documents filed by the first respondent.

9. In support of the contentions, the learned counsel for the first respondent relied on the judgment reported in ***AIR 2003 Mad 219 (N.Karpagam and others Vs. P.Deivanalammal @ Deivathal @ Deivathayee Ammal)***:

"6. It is also relevant to refer the Division Bench decision of this court reported in 1992 TLNJ 120(cited supra), wherein after considering the relevant provisions relating to grant of injunction and section 151 C.P.C. the Bench has concluded that,

"In view of the above position of law, it has to be held that in appropriate cases, directions u/s151 of the code can be issued by the Civil Courts to the Police authorities to render aid to the aggrieved parties for the due and proper implementation of the order of temporary injunction or a decree for permanent injunction granted by the Civil Court."

finally, their Lordships have concluded that,

"In appropriate cases, the Civil Court has the power and is indeed under a duty, to issue suitable directions to police officials, as servants of law, to extend their aid and assistance in the execution of decrees and orders of the Civil Courts or implementing an order of injunction passed by it."

7. In the light of the Division Bench decision holding that Civil Court has power to issue suitable directions to police to implement the orders, and in the light of the fact that injunction was in force from 26-3-2002 and the same was made absolute on 29-11-2002 and in view of the apprehension raised by the petitioner/respondent herein, I am satisfied that the learned Subordinate Judge was perfectly right in ordering police aid. In the light of the said factual details, the petitioners cannot have any valid defence to oppose the said application. I do not find any error or infirmity in the order impugned; consequently, the

*Civil Revision Petition fails and the same is dismissed.
No Costs. Consequently, Connected Miscellaneous
Petitions are closed."*

10. Heard the learned counsel for the petitioners in both the Civil Revision Petitions as well as the first respondent and perused the materials available on record.

11. The grievances of the petitioners is that the learned Judge without considering the contention of the petitioners that they are in possession, allowed the application. The said grievances is contrary to the order of injunction granted by the Trial Court. The Trial Court has granted interim injunction after being satisfied that first respondent is in possession of the suit property and restrained the petitioners from interfering with the possession of the first respondent. In this stage, the first respondent is seeking to fence the land and in view of the contention that petitioner and other defendants are preventing first respondent, the order of the learned Judge ordering police protection for fencing the property does not suffer any infirmity warranting interference by this Court. The judgment relied on by the learned counsel for the petitioners does not advance their case.

12. In the result, both the Civil Revision petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed. Since the suit is of the year 2014, the learned Judge is directed to dispose of the suit as expeditiously as possible, in any event, not later than four months from the date of receipt of a copy of this order.

05.02.2018

Index : Yes/No

Speaking Order/ Non-Speaking Order

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To

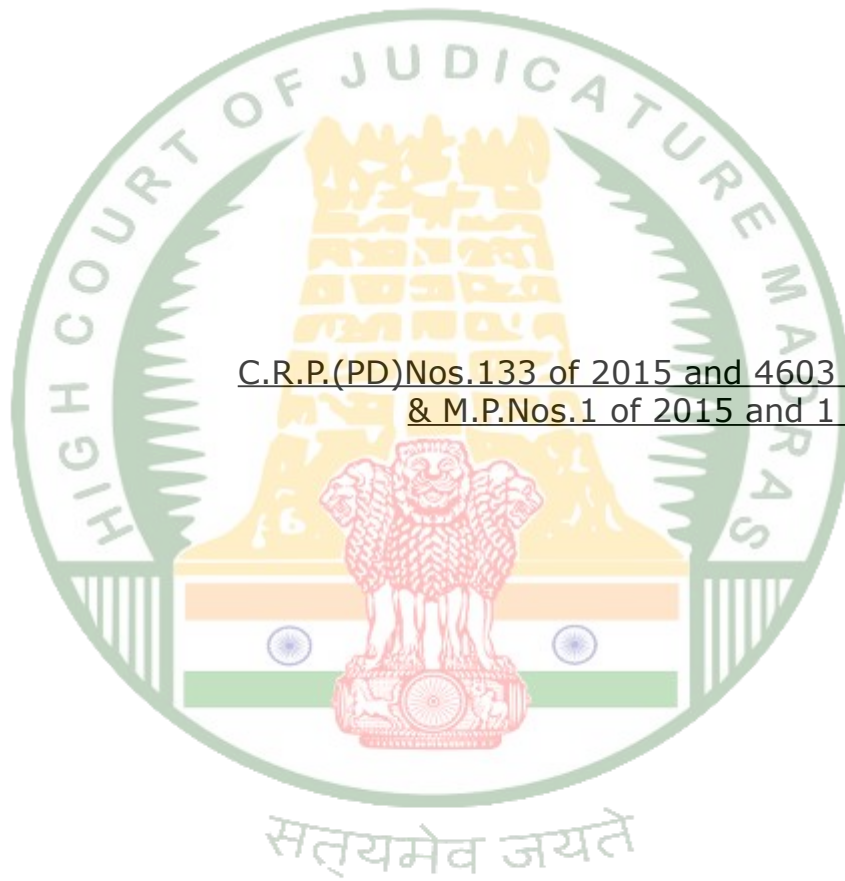
The Sub Judge,
Hosur.

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V.M.VELUMANI,J.

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