

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No. 469 of 2018
and
CMP No. 2491 of 2018

1. K. Ramadoss
V. Radhakrishnan
2. R. Suganthi
3. V. Ananthi
4. A. Anu Rekha
5. P. Anitha

.. Petitioners

Vs.

1. K. Ramesh
2. K. Rajendiran

.. Respondents

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, seeking to set aside the fair and decreetal order made in Tr.OP No. 20 of 2017 dated 01.03.2017 on the file of Principal District Court at Chennai and pass such further orders.

For Petitioners : Mr. Venkataswamy Babu

For Respondents : MR. K.Manikandan

ORDER

The present Civil Revision Petition is filed against the fair and decreetal order made in Tr.OP No. 20 of 2017 dated 01.03.2017 on the file of Principal District Court at Chennai.

2. The respondents have filed the suit in O.S. No.3413 of 1993 for declaration of title and recovery of possession and the other suit in O.S. No.5333 of 1993 was filed by the petitioner for the relief of permanent injunction and to restrain the possession of the respondents. The trial court decreed the suit of the respondents and dismissed the suit filed by the petitioner, vide its common judgement dated 11.12.2015. Challenging the aforesaid order, the petitioners filed appeals before the VI Additional City Civil Court, Chennai in A.S. No.58 of 2016 and 184 of 2016. Since the appeals were also dismissed, the petitioners filed review petitions before the First Appellate Court. Pending the same, the respondents filed E.P. No. 975 of 2016 and proceeded with the execution proceedings.

3. According to the petitioners, initially an order of interim stay was granted for a limited period in the appeal suit. Thereafter, the said petition was dismissed by the Appellate Court. In the meantime, the petitioners filed the Tr.OP No.20 of 2017 before the Principal District Judge, Chennai on 08.02.2017 stating certain allegations against the Presiding Officer, after hearing both the parties, the Principal District Judge, by order dated 01.03.2017 dismissed the petition. Challenging the same, the present revision is filed before this Court, seeking the aforesaid prayer.

4. The learned counsel for the petitioners would submit that the petitioners have specifically raised the allegations that the Presiding Officer, who is dealing with the execution proceedings is bias and proceeds without providing sufficient opportunity to the petitioners. The learned Principal District Court erroneously dismissed the application, by holding that no material has been placed for the allegations made against the Presiding Officer. It is further submitted that the court below has failed to appreciate the allegations made by the petitioners and therefore the order of the court below is liable to be set aside.

5. The learned counsel for the respondents would submit that the petitioners have filed the Transfer petition before the Principal District Judge, with an ulterior motive and there is no materials to prove the allegations made against the Presiding Officer. Therefore, the allegations are baseless and unfounded. Further, he brought to the notice of this Court that pending Transfer petition seeking to transfer the execution proceedings, the petitioners filed Tr. CMP Nos. 837 and 838 of 2016, which has been disposed, by order dated 27.04.2017 stating that the petitioners have not placed any materials for transferring the petition.

6. Heard the submissions of the learned counsel for the petitioners and the respondents.

7. On perusal, it is found that the petitioners have filed the Tr. OP No.20/2017 before the Principal District Court, Madras without any materials to substantiate his allegations. Further, the petitioners have also filed the Tr.CMP Nos.837 and 838 of 2016 and the same was dismissed by holding that no valid materials have been placed to consider

the petitions. In the present revision also, the impugned order has been passed on 01.03.2017 and the petitioners have filed the revision petition nearly after 11 months, challenging the said order. Therefore, in the absence of any materials to substantiate the allegations made against the Presiding Officer, this Court is not inclined to interfere with the order passed by the court below.

8. Therefore, the Civil Revision Petition fails and the same is dismissed. Consequently, the connected Miscellaneous Petition is closed.
No costs.

Index: Yes/ No

Speaking Order/Non Speaking Order

[Issue order copy on 19.03.2018]

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07.02.2018

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To

1. The Principal District Court
Chennai.
2. The IX Assistant City Civil
Court, Chennai.

D. KRISHNAKUMAR J.,

avr



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