



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) .No.446 of 2018 (PD)

and

C.M.P. (MD) .Nos.1954 and 1955 of 2018

1.SPN.Sathyamoorthy

2.SPN.Krishnamoorthy

... Petitioners/Defendants

Vs.

M.Prathap

... Respondent/Plaintiff

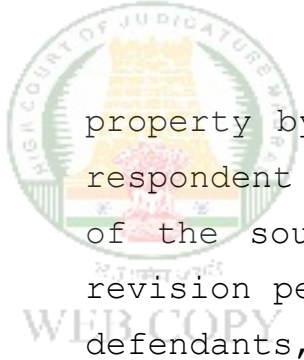
PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, praying to strike off the plaint in O.S.No.155 of 2018 pending on the file of the learned II-Additional District Munsif, Tiruchirapalli as the same is abuse of process of the Court.

For petitioners : Mr.R.Balachanderan
For respondent : Mr.R.Ponkarthikeyan

ORDER

This civil revision petition has been filed by the respondents / defendants seeking to strike off the plaint in O.S.No.155 of 2018 pending on the file of the learned II-Additional District Munsif, Tiruchirpalli.

2. It is stated in the petition that the respondent herein, as plaintiff, has filed the suit in O.S.No.155 of 2018 for declaration and permanent injunction against the revision petitioners / defendants and obtained an ex parte interim order of injunction on 16.02.2018. I.A.No.102 of 2018 restraining the revision petitioners from interfering with the alleged possession of the suit

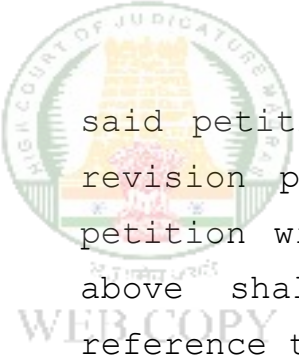


property by the respondent / plaintiff and then, on 22.02.2018 the respondent / plaintiff, along with his henchmen, has demolished part of the southern side portion of the compound wall put up by the revision petitioners / defendants. Hence, the revision petitioners / defendants, immediately, lodged a criminal complaint to the jurisdiction Police, but the respondent / plaintiff, by producing the said ex parte interim order granted by the Court, stated that the Police cannot interfere in the civil matter. According to the revision petitioners / defendants, they have not been served with either Court notice or order granting interim injunction. As the respondent / plaintiff has filed the suit and obtained interim order, suppressing various facts and forging certain documents, the revision petitioners / defendants have come up with this civil revision petition seeking to strike off the plaint itself.

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

4. The learned counsel appearing for both sides vehemently raised allegations and counter allegations against each other. Considering the facts and circumstances of the case and also considering the fact that the revision petitioners / defendants have come to this Court without availing the alternative remedy of filing vacate stay petition before the Court below, this Court, without going into the merits of the case, is inclined to issue the following directions:

The revision petitioners / defendants are directed to file vacate stay petition before the Court below within a period of one week from the date of receipt of a copy of this order. On receipt of such petition, the Court below is directed to consider and after hearing both sides, dispose of the said petition on merits and in accordance with law, within a period of one week thereafter. Till such time, both the parties shall maintain status quo and shall not take any coercive steps against each other. Both the parties are also directed to cooperate with the trial Court to dispose of the



said petition within the stipulated period. In the event of the revision petitioners / defendants fails to file the vacate stay petition within the stipulated period, the other direction granted above shall stand vacated automatically, without any further reference to this Court.

5. With the above directions, this civil revision petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The II-Additional District Munsif,
Tiruchirapalli.

+1cc to M/S.R.PON KARTHIKEYAN, Advocate SR.No.52154.
+1cc to M/S.R.BALACHANDRAN, Advocate SR.No.52206.

C.R.P (MD) .No.446 of 2018 (PD)
01.03.2018

gcg
SDS/SKN:RSK/SAR 1/02.03.2018/3P/4C