



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.R.P.(PD) (MD) No.202 of 2015
and M.P.(MD) No.1 of 2015

1. Dharmaraj
2. P.R.Kumar

(For themselves and on behalf of the members
of Anbil Mandram, Malai Adivaram, Ponnalaipatti,
Trichirappalli) ... Petitioners/Respondents/Plaintiffs

-vs-

The State of Tamil Nadu,
Rep. by its District Collector,
Having Office at Collectorate,
Tiruchirappalli.

... Respondent/Petitioner/Defendant

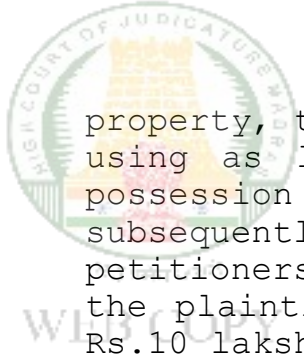
Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the fair and decreetal order dated 02.07.2014 made in I.A.No.81 of 2012 in O.S.No.802 of 2011 on the file of III Additional Munsif Court, Trichy.

For Petitioners : Mr.S.Satheesh Kumar
For Mr.R.Govnidaraj
For Respondent : Mrs.V.P.M.Vaishnavi
Govt. Advocate

O R D E R

The revision petitioners are the plaintiffs in O.S.No.802 of 2011 on the file of III Additional Munsif Court, Trichy and in the suit, the revision petitioners/plaintiffs sought for permanent injunction among various other reliefs. During pendency of the suit, the defendant/respondent herein has filed an application in I.A.No.81 of 2012, praying to set aside the exparte order passed in I.A.No.274 of 2011, in and by which, an exparte order of temporary injunction was passed and the said application was in the interest of justice allowed by the Trial Court. Challenging the said order, the petitioners are before this Court.

2. It is the case of the revision petitioners that the Society by name Anbil Mandram was not registered and the suit property in which the society is located is a punja tharisu belonging to the Government and not assessed to tax. In order to protect the



property, the members of Madnram decided to construct a building for using as library, park etc. The Mandram and the members are in possession and enjoyment of the property and the property was subsequently assessed to tax. It is the further case of the revision petitioners that now the Government has been taking steps to remove the plaintiffs from the suit property and since they spent nearly Rs.10 laksh for improving the property, the act of the Government in evicting them from the property high-handedly is unsustainable.

3. The revision petitioners state that in this regard, they filed a suit for permanent injunction and subsequently, they also filed an application for interim application, pursuant to the threat meted out by the plaintiffs at the hands of the Government and in the said application, on account of non appearance of the Government Pleaders, an exparte order was granted in favour of the plaintiffs. Thereafter, the application filed by the Government for setting aside the order was allowed and the Trial Court, while allowing the application, held though there was no merit in the application, the petitioner was allowed only in the interest of justice. Contending that the Trial Court, in the guise of providing interest of justice to the Government, has taken away the interest of justice of the plaintiffs arbitrarily and therefore, the said order is liable to be set aside.

4. The learned Government Advocate appearing for the respondent has contended that the plaintiffs have encroached the Government Poramboke land to an extent of 7599 sq.ft., with an intention to grab it solely and the said property was earmarked specifically for construction of a Police Station. On 22.07.2011, due to lack of communication, nobody appeared before the Trial Court on the side of the Government, which resulted in passing an exparte order, aggrieved by which, the Government filed the application in I.A.No.81 of 2012 seeking to set aside the same and the said application was rightly allowed by the Trial Court taking into account the cause for which, the property was earmarked. Hence, there is no merit in the present petition and the order of the Trial Court need not be interfered with.

5. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondent. This Court also perused the material documents available on record.

6. It is the stand of the petitioners that they developed the suit property for public use and having allowed them to improve the property and having assessed the property to tax, the Government cannot now stand up and say that the petitioners have encroached upon the property. According to the respondent, the property was earmarked for constructing a Police Station and such a vast area cannot be allowed to be encroached upon by the petitioners. Anyhow, the Government has also made it clear that they are going to use it for public use. It is also admitted by the petitioners themselves that it is a punja tharisu belonging to the Government and as such,



the exparte interim order will defeat the interest of justice of the Government to contest the suit effectively and the exparte order was passed on account of non appearance of the respondent before the Trial Court due to lack of communication. It is one of the principles of the administration of justice that justice should not only be done but it should be seen to be done. The Trial Court, bearing the said principle on mind, has allowed the application filed by the Government, which, in the considered opinion of this Court, is perfectly valid and needs no interference by this Court.

7. In the result,

a) this civil revision petition is dismissed, confirming the order dated 02.07.2014 made in I.A.No.81 of 2012 in O.S.No.802 of 2011 by the learned III Additional Munsif, Trichy;

b) the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order without giving any unnecessary adjournments to either parties and both the parties are directed to give their fullest cooperation for disposal of the suit within the time stipulated by this Court as above.

c) it is made clear that whatever observed above is only for the purpose of deciding this petition alone and the Trial Court shall proceed with the trial on merits and in accordance with law, being uninfluenced by anything stated hereinabove.

No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To:

1. The III Additional Munsif,
Trichy.
2. The District Collector,
The State of Tamil Nadu,
Collectorate, Tiruchirapalli.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 64117
+ 1 CC TO Mr.R.GOVINDARAJ, ADVOCATE IN SR No. 64599

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TE/SB/SAR-3 : 06/07/2018 : 3P/5C

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