



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) No.2314 of 2017

Krishnan ... Petitioner / Respondent No.1
/ Plaintiff

vs.

1. Jeeva ... Respondent / Appellant /
Defendant No.4

2. The District Collector,
Sivagangai District.

3. The Assistant Director,
(Town Panchayat)
Collectorate,
Sivagangai,
Sivagangai District.

4. The Executive Officer,
Selection Grade Town Panchayat,
Manamadurai Town,
Manamadurai Taluk,
Sivagangai District. ... Respondents / Respondents
2, 3, 4 / Defendants 1 to 3

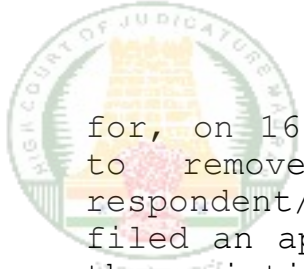
PRAYER: Petition filed under Article 227 of the Constitution of India, to direct the Subordinate Judge, Sivagangai to dispose the appeal in A.S.No.23 of 2017 on his file within a stipulated time limit.

For Petitioner : Mr.D.Gnanasekaran

ORDER

This Civil Revision Petition has been filed seeking a direction to the learned Subordinate Judge, Sivagangai, to dispose of the appeal suite in A.S.No.23 of 2017 within a stipulated time as may be fixed by this Court.

2. The facts of the case are that the petitioner herein, as plaintiff, has instituted a suit in O.S.No.67 of 2014 against the respondents herein/defendants, seeking the relief of declaration and permanent injunction, stating that the first respondent/fourth defendant has encroached a public pathway and has constructed a permanent structure therein. The said suit was decreed, as prayed



for, on 16.09.2016, directing the first respondent/fourth defendant to remove the encroachment within two months. The first respondent/fourth defendant, instead of vacating the premises, has filed an appeal suit in A.S.No.23 of 2017, challenging the order of the eviction. It is the apprehension of the petitioner/plaintiff that the first respondent/fourth defendant, citing the pendency of the appeal suit, is, now, attempting to construct further structure in the disputed property. Hence, the present civil revision petition came to be filed, seeking a direction to the lower appellate Court for early disposal of the said A.S.No.23 of 2017.

3. Heard the learned Counsel for the petitioners and perused the materials available on record. Notice to the respondents is dispensed with, since the prayer itself is for a limited scope seeking early disposal of the appeal suit in A.S.No.23 of 2017.

4. It is seen that the appeal suit is of the year 2017 and no interim orders have been granted by the lower appellate Court. Such being so, the petitioner/plaintiff has come forward with the present petition, because of the urgency/necessity involved, since, according to the petitioner/plaintiff, the first respondent/fourth defendant, citing the pendency of the said A.S., is not allowing him as well as the general public to use the pathway.

5. Considering the facts and circumstances of the case and also the limited scope of the prayer sought for, this Court, without going into the merits of the case, directs the learned Subordinate Judge, Sivagangai to dispose of the appeal suit in A.S.No.23 of 2017, within a period of three months from the date of receipt of a copy of this order.

6. With the above direction, the Civil Revision Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Sivagangai.

+ 1 CC TO Mr.D.GUNASEKARAN, ADVOCATE IN SR No. 47717

GK

TE/KKR/SAR-2 : 20/02/2018 : 2P/3C