



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2018

CORAM:

THE HONOURABLE **MR. JUSTICE S.S.SUNDAR**

C.R.P. (PD) (MD) No. 864 of 2013

and

M.P (MD) .No.1 of 2013

1.Bala Poi Sollan Pillai
2.Sundara Balakrishna Kumar
3.Arumugam

... Petitioners

Vs.

Kandasamy

... Respondent

PRAYER: Civil Revision Petition filed Under Article 227 of the Constitution of India, to allow this civil revision petition and thereby set aside the petition and order dated 30.04.2013 in I.A.No.434 of 2013 in O.S.No.150 of 2013 on the file of the Sub Court, Tuticorin.

For Petitioners : Mr.B.Rajesh Saravanan
For Respondent : Mr.S.Deenadayalan

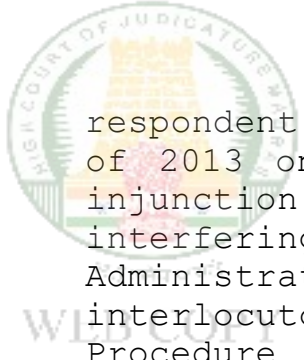
ORDER

This Civil Revision Petition is directed against the order dated 30.04.2013 passed in I.A.No.434 of 2013 in O.S.No.150 of 2013 on the file of the Sub-Court, Tuticorin.

2.The revision petitioners are the defendants in the suit in O.S.No.150 of 2013.

3.The brief facts, which are necessary to dispose of this civil revision petition, are as follows:-

The temple viz., Arulmigu Sri Parvathiamman Thirukoil is stated to be administered by the Administrative Committee elected by the Varidhars of the temple. There is a dispute with regard to the election. The first petitioner in the civil revision petition is stated to have been elected as the President of the Committee for a period of three years in the election held on 24.11.2012. The suit in O.S.No.577 of 2012 was filed to declare that the election of the first petitioner as President of the first defendant Temple's Administrative Committee is illegal and for consequential reliefs. The respondent in this revision is the fourth defendant in the suit. When the suit was pending, the



respondent in this revision has filed another suit in O.S.No.150 of 2013 on the file of the Sub-Court, Tuticorin, for permanent injunction restraining the revision petitioners herein from interfering with his functioning as President of the Administrative Committee of the Temple. In the said suit, an interlocutory application was filed under Order 39 Rule 1 of Civil Procedure Code restraining the revision petitioners from interfering with the respondent's functioning as President of the Administrative Committee of the Temple and for other reliefs. It is seen that the prayer is a comprehensive one. However, without even considering whether a *prima facie* case is made out or not or about the balance of convince, an ad-interim injunction was granted by the Lower Court on 30.04.2013. As against the order of injunction, dated 30.04.2013, the present revision petition is filed.

4.The learned counsel appearing for the revision petitioners submitted that the first petitioner was elected as President of Committee for a period of three years pursuant to the election that was conducted by the Advocate Commissioner as per the order passed by the Principal District Munsif Court, in I.A.No.2138 of 2015 in O.S.No.511 of 2015. It is also brought to the notice of this Court that the suit in O.S.No.511 of 2015 filed by parties challenging the election of the first revision petitioner for the previous term is also dismissed as infructuous, in view of the development that the first revision petitioner had been elected as President of the Committee by a subsequent election.

5.This Court has repeatedly pointed out the legal_infirmities in passing interim orders of interim injunction ignoring the procedure to be followed. The Court while dealing with an application for injunction, should consider *prima facie* case and balance of convenience, and thereafter can grant an order of injunction for reason. Injunction normally should be given after issuing notice to the opposite party and only in exceptional cases on the basis of *prima facie* case and materials ad-interim injunction can be granted. However, under Order 39 Rule 1 CPC, the Court is bound to record reasons in the order granting an ex-parte ad interim injunction. The brief facts of the case pleaded in the plaint should be noted before granting or refusing ex-parte injunction. The order passed by the Lower Court in this case clearly indicates that there is total non application of mind and even the ingredients of order 39 Rule 3 has not been satisfied.

6.In such circumstances, the order is liable to be set aside. However, taking into account the subsequent event viz, the first petitioner has been re-elected, this Court is unable to entertain this civil revision petition. However, it is made clear that the

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services.courts.gov.in/hccservices/ Court shall not stand in view of the inherent defect pointed out by this Court.



7. Accordingly, the Civil Revision Petition is closed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(W)

WEB COPY/True Copy/

Sub Assistant Registrar(CS-III)

To

The Subordinate Judge, Tuticorin.

+1cc to Mr.S.Deenadayalan, Advocate Sr.No.72456

+1cc to Mr.B.Rajesh Saravanan, Advocate Sr.No.72597

RMK

VB/KAK/SAR3/07.08.2018/3P/4C

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