



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P.(MD) No.910 of 2013
and
M.P.(MD) Nos.1 and 2 of 2013

P.L.Muthaiah : Petitioner/Respondent/Plaintiff

Vs.

1.S.Karutharaman
2.K.Sethuraman : Respondents/Petitioners/
Defendants 2 and 3

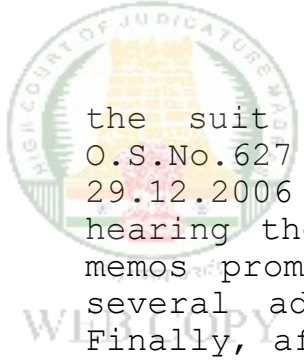
Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to allow this Civil Revision Petition and set aside the docket order dated 29.04.2013 made in I.A.No.834 of 2012 in O.S.No.627 of 2007 on the file of District Munsif Court, Dindigul.

For Petitioner : Mr.A.Arumugam
for M/s.Ajmal Associates
For Respondents : Mr.H.Lakshmi Shankar

ORDER

This Civil Revision Petition is filed by the plaintiff in the suit in O.S.No.627 of 2007 on the file of the Principal District Munsif Court, Dindigul.

2.The revision petitioner filed the suit for bare injunction restraining the defendants in the suit from interfering with the peaceful possession and enjoyment of the property. During pendency of the suit, it appears that the revision petitioner filed an application for interim injunction. In the plaint, the revision petitioner has given list of documents filed along with the plaint and the revision petitioner has referred to an unregistered agreement dated 29.12.2006 in original. However, the document that was relied upon by the revision petitioner namely the rental agreement was stated to be a forged document and therefore, the defendants in the suit appears to have initiated criminal proceedings also against the revision petitioner. The defendants in



the suit have filed an application in I.A.No.834 of 2012 in O.S.No.627 of 2007 for production of the rental agreement dated 29.12.2006 in original. It appears that during the course of hearing the petition, the revision petitioner has filed different memos promising to produce the document and ultimately, obtained several adjournments under the pretext of filing the document. Finally, after getting time to produce the document within ten days, the revision petitioner did not appear before the Court nor was represented by counsel when the matter was called on 29.04.2013. Perturbed by the conduct of the revision petitioner, the lower Court by order dated 29.04.2013 directed the arrest of the revision petitioner by 08.07.2013. This order is under challenge before this Court in this Civil Revision Petition.

3.This Court is also able to see that the conduct of the revision petitioner is not proper. However, the lower Court has directed arrest only because the revision petitioner has neither appeared nor was represented by any counsel on the day he was supposed to produce the document. Either under Order 13 or under any provisions of C.P.C. the court has been conferred with the power to arrest the person for not complying with the undertaking he has given earlier. Even when a witness fails to comply with summons, only after following the procedure prescribed under Order 16, Rule 10 C.P.C, Court can issue warrant. The power of contempt is not available to the lower Court. Even if the revision petitioner has not complied with the order or decree or any direction by the lower Court, the respondent can only approach this Court to initiate action for criminal contempt and cannot insist the lower Court to arrest the person who has violated any order of Court or failed to honour the solemn undertaking he has given before the Court. In that view of the matter, the lower Court lacks jurisdiction to arrest the petitioner in this context. The order directing arrest is challenged in this revision petition.

4.As a result, this Civil Revision Petition is allowed and the order of the lower Court is set aside. It is made clear that I.A.No.834 of 2012 in O.S.No.627 of 2007 on the file of the District Munsif Court shall be proceeded further and may be decided on merits invoking the power of Court under Order 16, Rules 6 and 10 C.P.C. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



To

The Principal District Munsif ,
Dindigul.

Copy to

The Record Keeper,
VR Section, (2 Copies)
Madurai Bench Of Madras High Court,
Madurai.

+1CC to Mr.LakshmiShankar Advocate in SR.No.62398,
+1CC to M/s.Ajmal Associates in SR.No.62465.

SRM

DS/SV/MMS/SAR-1 :16.05.2018: 3P/6C

C.R.P. (MD) No.910 of 2013
19.04.2018