

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(P.D).Nos.2515 & 2516 of 2018
and
C.M.P.Nos.15317 & 15318 of 2018

Sundaram

... Petitioner
in both CRPs

-VS-

Thirulogachandar

... Respondent
in both CRPs

Petitions under Article 227 of the Constitution of India to set aside the common fair order and the decretal orders dated 20.6.2018 made in C.M.A.No.20 of 2017 and I.A.No. 97 of 2018 in C.M.A.No.20 of 2017 on the file of the Fourth Additional District Judge, Ponneri, Tiruvallur District in confirming the fair order and decretal order dated 24.10.2017 made in I.A.No.336 of 2017 in O.S.No.114 of 2017 on the file of the Sub ordinate Judge, Ponneri, Thiruvallur District.

For Petitioner : Mr.A.E.Ravichandran
in both CRPs
For Respondent : No Appearance

COMMON ORDER

The Civil Revision Petitions are filed by the defendant in O.S.No.114

of 2017 on the file of the Subordinate Judge, Ponneri, Thiruvallur District.

2. CRP (PD) No.2515 of 2018 is filed challenging the order dated 20.6.2018 made in CMA.No.20 of 2017 on the file of the Fourth Additional District Judge, Ponneri. CRP(PD) No.2516 of 2018 is filed challenging the order dated 20.6.2018 made in IA.No.97 of 2018 in CMA.No.20 of 2017 on the file of the Fourth Additional District Judge, Ponneri. The said application was filed seeking to receive additional documents in the said appeal.

3. Though the respondents have been served on 24.09.2018, none appeared for the respondents.

4. The facts, which are required to dispose of these two applications, are one and the same. It is seen from the records that the respondent herein had filed the said suit O.S.No.114 of 2017 on the file of the Sub-Court, Ponneri seeking permanent injunction restraining the defendant, who is the revision petitioner herein, from interfering with his peaceful possession and the enjoyment of the suit property except by due to process of law.

5. The property in question is a shop portion, which consists of two shops at No.2, GNT Road, Redhills, Madhavaram. It is the case of the plaintiff that in the year 1985, the defendant was working as an Assistant in the medical shop named as Corner Medicals at Redhills, which was being run

by one Dr.Subramani. Thereafter, one medical shop was taken for lease and at that point of time, according to the plaintiff, though he was only a student, he used to look after the said business in the evening.

6. The said Corner Medicals was sold since Dr.Subramani - the original owner had died and the said medical shop was purchased by the plaintiffs, his brothers including the defendant. The plaintiff would submit that he and his brothers had worked hard in the said business. The plaintiff has narrated several instances as to how he and his brothers had jointly carried on their business. With reference to the suit schedule property, the plaintiff would submit that on 20.08.2014, he has sent a legal notice to the defendant claiming partition of the properties, for which, the defendant had sent a false reply notice dated 22.08.2014. Thereafter, in a mediation, which took place under the auspices of elders, relatives and well wishers of the plaintiff and the defendant, on 25.02.2017, the plaintiff and the defendant had entered into compromise agreement and under that agreement, a sum of Rs.50,000/- was paid as advance by the defendant to the plaintiff towards the share amount that was due to the plaintiff and he had promised to remit the remaining amount on 01.04.2017 and he had also agreed to handover the Corner Medicals to the plaintiff by 01.04.2017. However on 01.04.2017, the defendant did not handover the shop and it was only on 01.05.2017 that the defendant had handed over the Medical shop to the

plaintiff.

7. The plaintiff would submit that since the share amount was not paid, the plaintiff had given a representation to the said State Legal Services Authority, High Court Campus, before whom both parties had appeared and thereafter the defendant started indulging in illegal activities to evict the plaintiff from the property. The plaintiff would further submit that the agreement dated 25.02.2017 was not acted upon and the plaintiff was entitled to partition.

8. He would also submit that the defendant had tried to interfere with his peaceful possession and enjoyment of the suit property. The plaintiff would further submit that he is depending on the suit property for his livelihood whereas the defendant was not a man of means. Therefore, the plaintiff would submit that his possession has to be protected and therefore he has been constrained to file the suit.

9. In the list of documents that have been filed, there is no document filed to show the actual possession and enjoyment of the property by the defendant.

10. Simultaneously, the plaintiff had also filed I.A.No. 336 of 2017 for ad-interim injunction more or less narrating the same facts as in the plaint.

11. The Trial Court, granted an ad-interim injunction and armed with

that order, the plaintiff had come with his henchmen and opened the lock of the shop on 14.7.2017 at 7.45 am and tried to enter into the shop and the defendant, with great difficulty, managed to run the plaintiff and his men at bay. The police, who had come to the premises on the defendant's complaint, has kept the shop under lock and key, which position continues till today.

12. The defendant immediately took steps to obtain the papers and on its perusal understand the fraud played by the plaintiff. The document Nos.Ex.P.22, P.24 and P.27, filed along with the plaint were documents in which the plaintiff had forged the signature of the defendant. The entire proceedings before the Tamil Nadu State Legal Services Authority, based upon which, the case has been built up by the plaintiff, has not been signed by the defendant and the defendant and he never participated in any of the proceedings. It is only after the defendant had come into possession of the documents that this fact became clear to him. Be that as it may, the learned Subordinate Judge, Ponneri proceeded to allow I.A.No.336 of 2017 primarily being upset by the fact that the police authorities had decided to intervene and keep the property under lock and key. The plaintiff had not marked any documents whatsoever to show that he has been in possession and enjoyment of the premises from - 1.5.2017, which is the date, on which, he alleges that the defendant had handed over the

possession to him.

13. The appeal filed by the revision petitioner to the Fourth Additional District Court Ponneri also ended in a dismissal. As on date, the learned counsel for the revision petitioner/defendant would submit that the petition premises remains under lock and key and the same status may be continued till the disposal of the suit.

14. Considering the fact that the serious allegations of fraud and manipulations of official and legal documents have been levelled against the respondent/plaintiff, it would be in the interest of justice that the suit is expedited and the learned Subordinate Judge, Ponneri be directed to dispose of the Suit on or before 30.06.2019, since the written statement has already been filed. The learned counsel for the revision petitioner has also submitted that they had filed additional documents in I.A.No.97 of 2018 in C.M.A.No. 20 of 2017. One of these documents is a letter from the notary public, who is alleged to sign the compromise and the letter of undertaking and it is seen that she has denied the execution of these documents. All these give rise to serious allegations of fraud and abuse of process of court. The learned Trial Judge shall proceed with the disposal of the suit as directed above.

15. The Civil Revision Petitions are disposed of with the directions that parties shall maintain status quo as on date with regard to the suit

schedule property, which is kept under lock and key, till the disposal of the suit. The suit shall be disposed of on or before 30.06.2019. Both parties are free to file such documents as are required to substantiate their case. The learned Trial Judge shall report compliance to this Court on or before 01.7.2019. No costs. Consequently, Miscellaneous Petitions are closed.

19.03.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order
ebsi/mrn

Note: Issue order copy on 22.03.2019

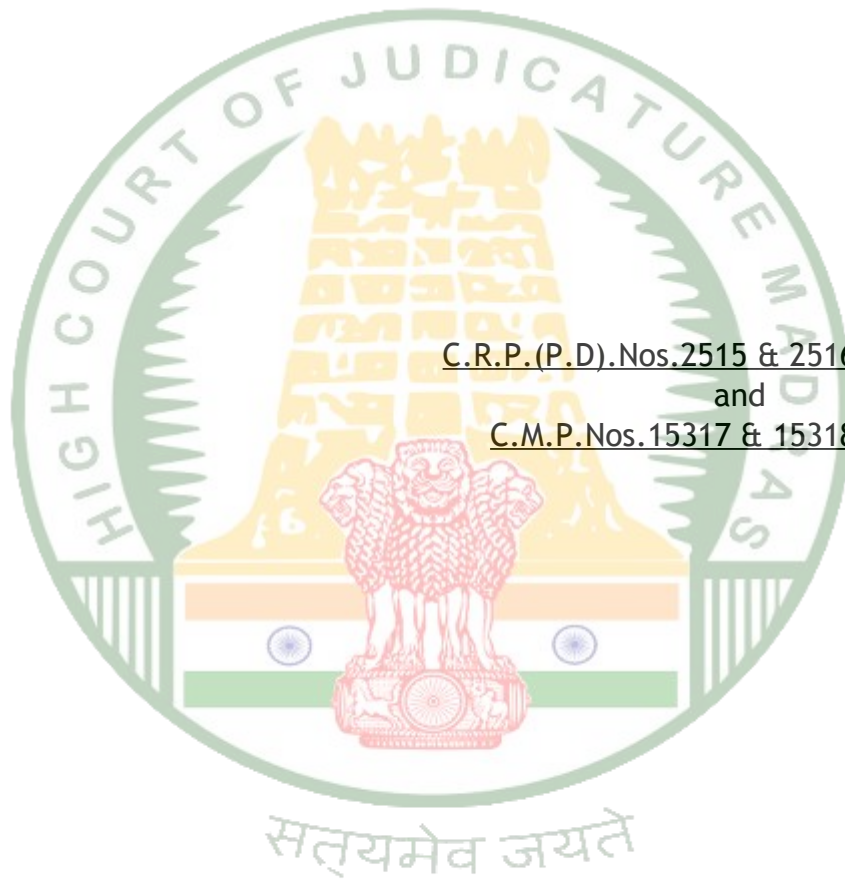
To

1. The IV Additional District Judge,
Ponneri, Tiruvallur District.
2. The Subordinate Judge,
Ponneri, Tiruvallur District

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P.T. ASHA.J

ebsi/mrn



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