

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(PD).No.2770 of 2014
and M.P.No.1 of 2014

1.Kattaiya Konnar

2.Balasubramanian

... Petitioners

Vs.

1.Selvaraj

2.Kuppusamy

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 17.06.2014 made in I.A.No.339 of 2014 in O.S.No.345 of 2011 on the file of the III Additional District Munsif Court, Kallakurichi.

For Petitioners : Mr.P.Valliappan

For Respondents : Mr.P.Rajavel (R2)
R1 - no appearance

ORDER

Challenging the order passed in I.A.No.339 of 2014 in O.S.No.345 of 2011 on the file of the III Additional District Munsif Court, Kallakurichi, the plaintiffs have filed the above Civil Revision Petition.

2.The plaintiffs filed the suit in O.S.No.345 of 2011 for permanent injunction. The defendants filed their written statement and are contesting the suit. In the said suit, the plaintiffs took out an application in I.A.No.339 of 2014 under Order 13 Rule 10 of the Civil Procedure Code to send for the documents relating to RTR No.2536/2011 in respect of Natham Survey No.49/18 measuring an extent of 0.00.36 sq.m. from the Office of the Tahsildar, Kallakurichi. The application filed by the plaintiffs were contested by the defendants. The trial Court dismissed the application finding that the plaintiffs have already filed an application under Rule 76 of the Civil Rules of Practice for the very same relief sought for in the present application and the trial Court had dismissed the application on 29.08.2013.

3.Mr.P.Valliappan, learned counsel appearing for the petitioners submitted that the order passed in the earlier application shall not bar the 2nd application and the principles of *res judicata* shall not apply.

4.Since the trial Court had rejected the earlier application seeking for the very same relief sought for in the present application (i.e.) sending for the documents from the Office of the Tahsildar, Kallakurichi, I am of the view that the petitioners cannot maintain the present application. There cannot be any dispute that the principles of *res judicata* shall not apply in

respect of the Interlocutory Applications. However, in the present case on hand, the petitioners cannot file consecutive applications seeking for the very same relief sought for in the earlier application. However, I am of the view that the plaintiffs can seek for copy of the documents from the Office of the Tahsildar, Kallakurichi under the Right to Information Act. I do not find any merits in the Civil Revision Petition. However, it is open to the petitioners to file appropriate application before the Tahsildar, Kallakurichi under the Right to Information Act for getting copies of the documents.

5. With these observations, the Civil Revision Petition is disposed of.

6. Since the suit is pending from the year 2011, I direct the III Additional District Munsif, Kallakurichi to dispose of the suit on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
Speaking / non - speaking order
va

05.04.2019

M. DURAISWAMY, J.
va

To

1.The III Additional District Munsif Court,
Kallakurichi.



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