

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (PD)No.2879 of 2014
and
M.P. Nos.1 and 1 of 2014

Muthu @ Durai Muthukumarasamy Petitioner
Vs

1. Annaduorai Nattar
2. Amirthalingam
3. Sellaperumal
4. Tamilarasan
5. Gowri
6. Padma
7. Kavitha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 13.12.2013 passed in C.M.A. 3 of 2012 on the file of the Principal District and Sessions Judge, Ariyalur, reversing the fair and decreetal order, dated 3.12.2010 passed in I.A. No.73 of 2010 in O.S. No.46 of 2010 on the file of Sub-Court, Ariyalur.

For petitioner

: Mr.V.Venkkatasamy

For respondents

: Mr.S. Mohan for RR5 and 6

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 13.12.2013 passed by the Principal District and Sessions Judge, Ariyalur in C.M.A. No.3 of 2012 in reversing the fair and decreetal order dated 03.12.2010 passed by the Sub Court Ariyalur in I.A. No.73 of 2010 in O.S. No.46 of 2010.

Brief facts leading to the filing of the instant Civil Revision**Petition are as follows :-**

2. The petitioner is the plaintiff in the suit O.S. No.46 of 2010 on the file of Sub Court, Ariyalur. He filed a suit against the defendants, who are respondents 1 to 5 seeking for a permanent injunction restraining the respondents / defendants from interfering with his peaceful possession and enjoyment of the suit schedule properties and also to restrain them from cutting the standing trees and inflicting loss to the petitioner / plaintiff.

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3. During the pendency of the suit, I.A. No.73 of 2010 was filed by the petitioner seeking for an injunction restraining the respondents from interfering with his possession and enjoyment of his suit schedule

property and also to restrain the respondents from cutting trees in the suit schedule property.

4. A counter affidavit was filed by the first respondent in I.A. No.73 of 2010 denying the allegations made by the petitioner filed in support of I.A. No.73 of 2010 and stating that the first respondent is the absolute owner of the suit schedule properties and the petitioner is a trespasser, who has trespassed into the suit schedule property unauthorisedly.

5. The Trial Court by its order dated 03.12.2010 allowed I.A. No.73 of 2010 filed by the petitioner and granted an order of injunction in favour of the petitioner, as prayed for in I.A No.73 of 2010.

6. Aggrieved by the said order of the Trial Court, the respondents / defendants preferred an appeal before the Principal District and Sessions Judge, Ariyalur in C.M.A. No.3 of 2012. By order dated 13.12.2013, the lower appellate court allowed the appeal filed by the respondents in C.M.A. No.3 of 2012. While allowing the appeal,

the lower appellate court has observed that the petitioner has not been able to establish that he is in legal possession of the suit schedule properties and therefore on that ground the lower appellate court has set aside the order of the trial Court passed in I.A. No.73 of 2010. Aggrieved by the order dated 13.12.2013, passed in C.M.A. No.3 of 2012, the instant Civil Revision Petition has been filed.

7. Heard Mr. V.Venkkatasamy, learned counsel for the petitioner and Mr.S. Mohan, learned counsel for the 5th and 6th respondents.

8. The revision has been filed by the plaintiff aggrieved by the refusal of lower appellate court to grant an interim injunction by reversing the finding given by the Trial Court in favour of the petitioner in I.A. No.73 of 2010.

9. Without going into merits of the matter and considering the fact that the suit is of the year 2010 and the instant revision has been filed challenging the rejection of injunction in favour of the petitioner, pending disposal of the suit, this Court is of the considered view that no useful purpose would be served, if the revision is decided on merits at this stage. Instead, in the interest of both the parties to the dispute

and in the interest of justice, a direction can be given to the Trial Court to dispose of the suit O.S. No.46 of 2010 within a time frame, once the pleadings and the issues are framed.

10. For the foregoing reasons, recording the submissions of the learned counsel for the petitioner that the suit has been transferred from the Principal District and Sessions Judge, Ariyalur to the Sub Court, Jayakondam, in view of change in the pecuniary jurisdiction, this Court directs the Sub Court, Jayakondam to dispose of the suit O.S. No.46 of 2010 filed by the petitioner, after the pleadings are completed and after issues are framed, within a period of six months from the date of framing of the issues.

11. With the above said directions, the Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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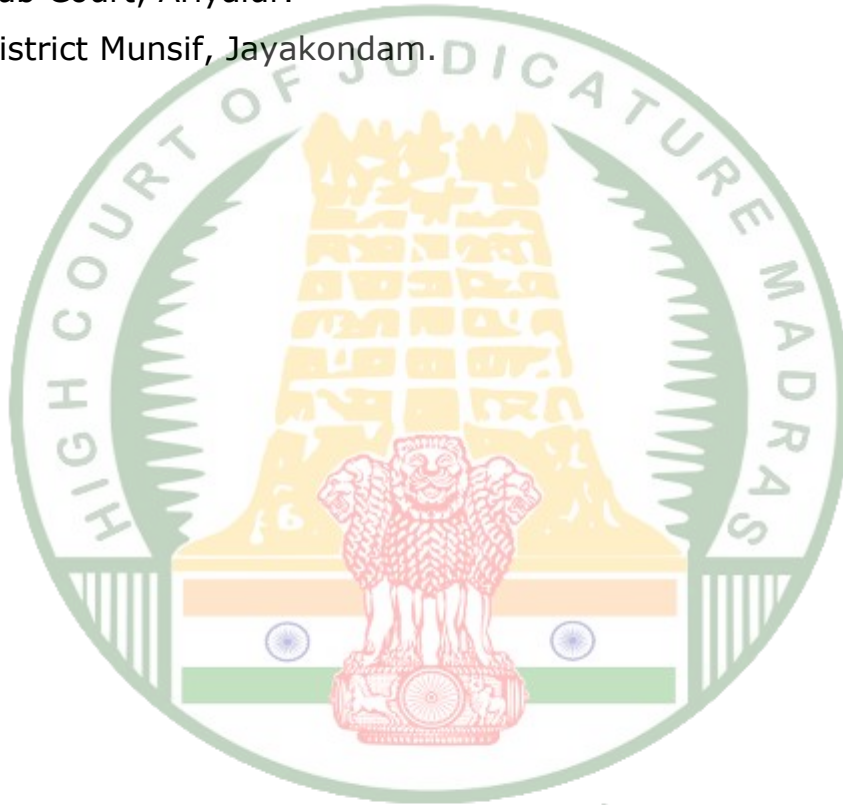
Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
vsi2

ABDUL QUDDHOSE, J.

vsi2

To

1. The Sub Court, Ariyalur.
2. The District Munsif, Jayakondam.



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