

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **13.06.2019**

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P.(PD)No.2907 of 2014

1.Veerammal
2.Kuna @ Santhi

...Petitioners

vs.

1.N.M.Kaliannan
2.Ravi @ Ravichandran

...Respondents

*(No relief sought against the 2nd respondent.
Hence no batta paid for the 2nd respondent
and the 2nd respondent given up)*

Prayer: Civil Revision Petition filed under Section 227 of the Constitution of India, against the Judgment and Decree dated 15.04.2014 made in C.M.A.No.10 of 2013 on the file of the Principal District Judge, Namakkal confirming the order and decretal order dated 30.04.2013 made in I.A.No.176 of 2013 in O.S.No.61 of 2013 on the file of the Sub Court, Namakkal.

For Petitioners : Mr.T.Dhanyakumar

For Respondents : Mr.C.A.Diwakar for R1
R2 – Given up

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 15.04.2014, passed by the learned Principal District Judge, Namakkal in C.M.A.No.10 of 2014 confirming the order dated 30.04.2014, passed in I.A.No.176 of 2016 in O.S.No.61 of 2013 by the Sub Court, Namakkal.

Brief facts leading to the filing of the instant revision:

2.The petitioner are the defendants 1 and 3 in the suit O.S.No.61 of 2013, pending on the file of the Sub Court, Namakkal. The suit was filed by the respondents for declaration and injunction in respect of the suit schedule property claiming to be the absolute owner. Pending the suit, the respondents filed I.A.No.176 of 2013 in O.S.No.61 of 2013, seeking for an interim injunction restraining the petitioners and other defendants from interfering with their peaceful possession and enjoyment of the suit schedule property. A counter affidavit was also filed by the petitioners in I.A.No.176 of 2013 in O.S.No.61 of 2013.

3.The learned Sub Judge, Namakkal by its order dated 30.04.2014 in I.A.No.176 of 2013 in O.S.No.61 of 2013, allowed the application filed by the respondents and granted injunction in their favour pending disposal of the suit.

4.Aggrieved by the grant of an order of injunction dated 30.04.2013 in I.A.No.176 of 2013, the petitioners have preferred an appeal before the Principal District Judge, Namakkal in C.M.A.No.10 of 2013. The Appellate Court has also confirmed the order dated 30.04.2013, passed by the Sub Court, Namakkal in I.A.No.176 of 2013 in O.S.No.61 of 2013. Aggrieved by the dismissal of C.M.A.No.10 of 2013, the instant Civil Revision Petition has been filed.

5.Heard Mr.T.Dhanyakumar, learned counsel for the petitioners and Mr.C.A.Diwakar, learned counsel for the first respondent.

6.This Court has perused the impugned orders passed by the Courts below in I.A.No.176 of 2013 in O.S.No.61 of 2013 as well as in C.M.A.No.10 of 2013. Both the Courts have concurrently held that *prima facie* case has been made out by the respondents for grant of an order *ad interim* injunction pending disposal of the suit. Before the trial Court, the respondents have filed four documents namely, (a) the Partition Deed dated 20.3.1980 to prove their ownership of the suit schedule property, (b) the Police complaint given by them against the petitioners for interfering with their peaceful possession and enjoyment of the suit schedule property, (c) CSR Receipt issued by the Police Station for acknowledging the receipt of the Police complaint and (d) the Rough Sketch for the suit schedule property. At the instance of the respondents, an Advocate Commissioner was also appointed to note down the physical features of the suit schedule property and the Report of the Advocate Commissioner as well as the Advocate Commissioner's Plan were also marked as exhibits in I.A.No.176 of 2013 in O.S.No.61 of 2013. Based on these documents, the trial Court has come to the *prime facie* conclusion that the respondents/plaintiffs

ABDUL QUDDHOSE, J.

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are entitled for the order of an *ad interim* injunction pending disposal of the suit. The Lower Appellate Court in C.M.A.No.10 of 2013 has also confirmed the order passed by the trial Court in I.A.No.176 of 2013 in O.S.No.61 of 2013.

7.This Court after having perused both the orders does not find any infirmity in the same. Therefore, there is no merit in this revision petition. However, considering the long pendency of the suit, this Court directs the trial Court, namely, the Sub Court, Namakkal to dispose of the suit O.S.No.61 of 2013 within a period of three months from the date of the receipt of a copy of this order.

8.With the aforesaid direction, the Civil Revision Petition is disposed of. However, there shall be no order as to costs.

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

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To
1.The Principal District Judge, Namakkal.
2.The Sub Court, Namakkal.