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THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

CRP.(PD).No.309 of 2014
and
MP.No.1 of 2014

M.Anuma Reddy

... Petitioner

Versus

1.R.Ashok Kumar
2.Sanjay Agarwal

... Respondents

Civil Revision petition is filed under Article 227 of the Constitution of India, praying to set aside the ex-parte order dated 30.10.2013 passed in I.A.No.603 of 2013 in O.S.No.239 of 2013 on the file of the learned Subordinate Judge, Hosur.

For petitioner : Mr.J.Sudhakaran

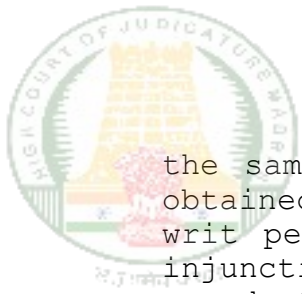
For respondents: Mr.K.Govi Ganesan

ORDER

The defendant in O.S.No.239 of 2013 is the revision petitioner herein.

2.The respondents herein/plaintiffs filed the suit in O.S.No.239 of 2013, seeking relief of permanent injunction restraining the defendant from interfering with the peaceful possession and enjoyment of the suit property and also seeking a direction to the defendant to pay a sum of Rs.1,00,000/- towards the damages caused by the defendant along with interest at the rate of 12% from the date of filing the suit. Along with the suit, the respondents /Plaintiffs have also filed an application in I.A.No.603 of 2013 for ad-interim injunction. Pending disposal of the suit, on 30.10.2013 an ex-parte order of injunction has been granted. Aggrieved against the same, the defendant/petitioner has preferred this Civil revision petition.

3.Learned counsel for the revision petitioner would contend that with respect to the same set of proceedings, as against the order passed by the Revenue Authorities, the very same plaintiffs/Respondents herein have filed WP.No.28404 of 2013 and



the same was disposed of on 09.02.2015. However, they have not obtained any order of injunction in MP.No.2 of 2013 in the said writ petition and so suppressing the order of refusal to grant injunction in MP.No.2 of 2013 in WP.No.28404 of 2013, they moved the Civil Court and obtained the ex-parte order of injunction and hence they preferred Civil revision petition under Article 227 of the Constitution of India. In support of the said submission, he relied on the decision of the Hon'ble Supreme Court in the case of S.P.Chengalvaraya Naidu (dead) by LRs. Vs. Jagannath (dead) by LRs and Others, reported in 1994 (1) SCC 1 and this Court decision rendered in the case of, The Managing Director, M/s.Makkal Tholai Thodarpur Kuzhuman Ltd., Vs. V.Muthulakshmi, reported in 2007 (5) CTC 694.

4.Learned counsel for the respondents/plaintiffs would contend that it is only an order of ex-parte ad-interim injunction and the course of action open to the petitioner is to pursue his remedy before the Court below and not by way of the present the Civil revision petition and the revision filed under Article 227 of the Constitution of India is not maintainable in view of the decision reported in 2019 (9) SCC 538 in the case of Virudhunagar Hindu Nadargal Dharma Paribalana Sabai & Others Vs. Tuticorin Educational Society & Others.

5.After perusing the above said decisions and the factual position, it is seen that by order dated 09.02.2015 passed in WP.No.28404 of 2013, the writ petition filed by the plaintiff was allowed with liberty to the petitioner herein to file an appeal before the Revenue Divisional Officer and the impugned order passed by the second respondent therein /District Revenue Officer, Krishnagiri was set aside and the order passed by the first respondent therein, through the Principal Secretary and Commissioner of Land Administration was also quashed. Since the main writ petition was disposed of, the CMP's were treated as closed.

6.Considering the submissions of the learned counsel for the petitioner, the factual position as stated by the petitioner appears to be incorrect and in view of the reasoning given in the preceding paragraph, I do not find any error in the ad-interim injunction order granted by the Trial Court in I.A.No.603 of 2013, dated 30.10.2013. Hence, the Civil revision petition is rejected. Further, it is open to the petitioner herein to file a counter in the said I.A.No.603 of 2013 to agitate in the manner known to law before the Hosur. The Trial Court is directed to dispose of the I.A.No.603 of 2013 in accordance with law as expeditiously as possible.



7.It is hereby clarified that the trial court shall dispose of I.A. No. 603 of 2013 without being influenced by any of the above observations made by this Court in this Civil revision, independently, on merits. No costs. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

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To

The Subordinate Judge, Hosur.

+1 CC to Mr.K.Govi Ganesan, Advocate sr 10593

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and
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SP(23/01/2020)