



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:19.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP. (MD) .No.1829 of 2012 (PD)

and

M.P. (MD) .No.1 of 2012

Manimeghalai ...Petitioner/Respondent/Plaintiff
Vs.
Anbu @ Anbarasi ...Respondent/Petitioner/Defendant

PRAYER: This Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.79 of 2012, in O.S.No.121 of 2009, on the file of the District Munsif, Thiruvaiyaru, dated 21.07.2012.

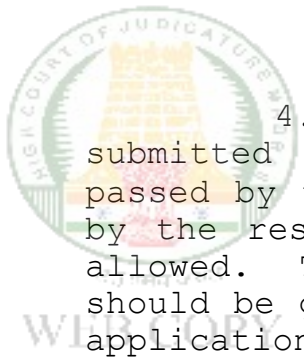
For Petitioner : Mr.V.Chandrasekar
For Respondent : Mr.M.Karunanithi

O R D E R

This Civil Revision Petition has been filed challenging the order of the Court below allowing the application filed under Order 9 Rule 7 of the Code of Civil Procedure setting aside an order of interim injunction passed on 29.02.2012.

2. The petitioner is the plaintiff in the suit. Along with the suit, he filed an application seeking for interim injunction and the order of interim injunction was passed on 31.08.2009. Subsequently, an application was filed in I.A.No.25 of 2011, seeking for police protection and that was also ordered on 08.02.2012. After nearly two years, the respondent / defendant filed an application to set aside the interim injunction granted on the ground that it is an *ex parte* order and he must be heard in the application. The Court below has allowed this application by imposing cost on the respondent. Aggrieved by the same, the petitioner / plaintiff has filed this present Civil Revision Petition.

3. The learned counsel appearing for the petitioner submitted that the order of interim injunction was passed only after hearing the other side and thereafter, the police protection was also ordered in I.A.No.25 of 2011, after hearing the arguments on both sides. The present application filed under Order 9 Rule 7 of the Code of Civil Procedure, after a delay of nearly two years to set aside the *ex parte* interim injunction is not maintainable and the Court below ought to have dismissed the application and proceeded to deal with the main suit.



4. The learned counsel appearing for the respondent submitted that admittedly the interim injunction order that was passed by the Court below was *ex parte*, since no counter was filed by the respondent and on that ground, the application came to be allowed. The learned counsel further submitted that an opportunity should be given to the respondent to contest the interim injunction application.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. It is seen from the records that the order of interim injunction passed by the Court below was on merits. The subsequent order that was passed granting police protection in I.A.No.25 of 2011 was also on merits. The application under Order 9 Rule 7 came to be filed after nearly two years and it is not stated as to why it took such a long time for the respondent to file this application. The Court below failed to take note of this important factor and the Court below has mechanically allowed the application without any application of mind.

7. In the considered view of this Court, no useful purpose will be served by allowing the parties to contest the interim injunction application at this length of time. Therefore, the fair and final order passed by the Court below in I.A.No.79 of 2012, dated 21.07.2012, is hereby set aside.

8. In the result, the Civil Revision Petition is allowed and the Court below is directed to complete the proceedings in O.S.No.121 of 2009, on merits and in accordance with law, within a period of three months from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

Sub Assistant Registrar(CS)

tsg

To

1.The District Munsif Court, Thiruvaiyaru.

+1CC TO MR.V.CHANDRASEKAR, Advocate Sr. No. 100066

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19.11.2019

SCR(CO)

TR(10.12.2019) 2P 3C

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