



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRP PD(MD)No.804 of 2012
and
M.P. (MD)No.1 of 2012

C.T.Sankar
Executive Engineer,
Poigaiyar Reservoir Project
(Sub Division)
Aralvalimozhi
Kanyakumari District

... Petitioner/3rd Party/
2nd Respondent

Vs.

1.Shini Thangam
Rep.by her power of attorney
A.Itharajan

... Respondent/Plaintiff/
Petitioner

2.S.Ashok Kumar
Proprietor,
M/s.Rock and Arch Construction
Indian Pvt.Ltd.,
Kanyakumari District.

... Respondent/Defendant/
1st Respondent

PRAYER:This petition is filed under Article 227 of Civil Procedure Code, against the interlocutory application made in I.A.No.546 of 2011 in O.S.No.149 of 2010, on the file of Principal Additional District Munsif, Eraniel.

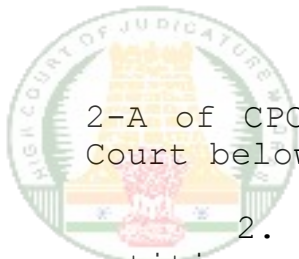
For Petitioner : Mr.Pala Ramasamy

For Respondent-1 : Mr.V.Ragavachari

For Respondent-2 : No Appearance

O R D E R

This Civil Revision Petition has been filed challenging the proceedings initiated by the first respondent under Order 39 Rule



2-A of CPC., for disobedience of the interim orders passed by the Court below in I.A.No.294 of 2010.

2. This petition has been filed mainly on the ground that the petitioner was not even a party in the suit as well as in the application and the status-quo order was passed by the Court below only as against the 2nd respondent and hence, the application insofar as the petitioner is concerned, is not maintainable.

3. The learned counsel appearing for the petitioner submitted that a willful disobedience of the order is required even to entertain an application under Order 39, Rule 2-A of the Code and since the petitioner was not a party in the application, the willful disobedience cannot be attributed to the petitioner. Therefore, the present Civil Revision Petition has been filed challenging the application on the ground of maintainability, insofar as the petitioner is concerned.

4. The learned counsel for the first respondent submitted that the petitioner was aware about the interim order passed by the Court below and inspite of the same, he has violated the said order. The learned counsel therefore submitted that an application for willful disobedience of the order can also be initiated against the persons who are not parties in the injunction petition, if it is shown that the concerned person was aware about the interim order and inspite of it has willfully disobeyed the same.

5. The suit is of the year 2010 and either of the parties are not in a position to confirm regarding the stage of the Suit. The application has been filed by the 1st respondent against the 2nd respondent and the petitioner on the ground that they have violated the interim orders passed by the Court below and there is a willful disobedience of the order. It is now a settled law that such application can even be entertained as against 3rd parties to the suit / application, if the plaintiff / applicant is able to make out a case to the effect that the concerned 3rd party was aware about the order of interim injunction and inspite of the same has colluded with the original defendant and disobeyed the order. This fact however requires to be considered by the Court below while dealing with the petition and it cannot be decided at a preliminary stage. Therefore, the petitioner raising a preliminary objection regarding the maintainability is rejected and the issue raised by the petitioner to the effect that he was not aware about the order and that there was no willful disobedience, is something to be decided by the court below in the course of the proceedings.

6. In the result, the Civil Revision Petition is dismissed and if the Court below has not already disposed of the application or disposed of the Suit, the application filed by the 1st respondent in I.A.No.546 of 2011, shall be tried on merits and in accordance with the law. The suit itself shall be disposed of within a period of



three months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is also dismissed.

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// True Copy //

Sd/-

Assistant Registrar (AD-II)

Sub Assistant Registrar(CS)

MPK

To

The Principal Additional District Munsif,
Eraniel.

+1 CC to M/s.V.RAGHAVACHARI, Advocate (SR-85988[F] dated 09/09/2019

+1 CC to M/s.S.PALARAMASAMY, Advocate (SR-85994[F] dated 09/09/2019

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