



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2019

CORAM:

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (MD) (PD).No.144 of 2019

and

CMP (MD).Nos.642, 880 and 2345 of 2019

1.T.Elisa
2.R.Paul George
3.V.Koil Pitcha :Petitioners/Respondents 1 to 3/Respondents 1 to 3

Vs.

1.D.C.Backiaraj
2.B.Jeyasingh Malraj
3.P.Gabriel
4.The District Registrar,
District Registrar Office,
Cheranmahadevi,
Tirunelveli District.
5.The State of Tamil Nadu,
through the District Collector,
District Collector's Office,
Tirunelveli. :Respondents/Respondents 4 and 5/ Respondents 4 to 5

PRAYER: The Civil Revision Petition has been filed under Article 227 of Civil Procedure Code to set aside the order dated 23.11.2018 in I.A.No.84 of 2018 in A.S.No.110 of 2018 on the file of the learned Additional Subordinate Judge, Tirunelveli.

For Petitioners :Mr.V.Panneerselvam
For Respondents 1 to 3 :Mr.G.Prabhurajadurai
for Mr.M.P.Senthil
For Respondents 4 & 5 :No appearance

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>
This petition has been filed by the petitioners against the order dated 23.11.2018 in I.A.No.84 of 2018 in A.S.No.110 of 2018 on the file of the learned Additional Subordinate Judge,



Tirunelveli.

2.The original suit was filed by the petitioners for the relief of declaration, permanent prohibitory injunction and mandatory injunction and for other reliefs.

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3.The grievance of the petitioners is that while entertaining the appeal filed by the respondents, the first appellate Court has granted an order of interim stay. Aggrieved against the said interim order, the petitioners herein have preferred the civil revision petition by stating that they have filed caveat petition and notice was sent on 20.11.2018 to the respondents 1 to 3 and the respondents were also received notice on 22.11.2018. However, the respondents filed I.A.No.84 of 2018 in A.S.No.110 of 2018 and obtained interim order suppressing the caveat petition filed by the petitioners. After receipt of the said notice and without making any endorsement regarding the receipt of the said notice obtained interim order which is highly unlawful. Hence, the petitioners sought for vacating the said interim order, the present petition has been filed.

4.The grievance of the petitioners regarding the receipt of caveat notice and suppression of the same, the first Appellate Court ought to have called for the records and verified the same. It is also grievance of the petitioners that since the exparte interim order has been obtained by the respondents by way of suppression of the caveat notice, the first Appellate Court ought not to have passed an order of interim stay even which was brought to the notice of the Court.

5.The learned counsel for the petitioners submitted that the petitioners filed a suit for a declaration to declare that Form No.7 dated 06.10.2010 submitted before the District Registrar, Cheranmahadevi is not valid in law. Further, the learned counsel for the respondents submitted that the relief prayed for mandatory injunction directing the fourth respondent District Registrar to recognize Form 7 sent by the petitioners 1 to 3 dated 05.01.2012 and the said suit filed by the petitioners was also decreed before the lower Court. He would further submit that based on the said decree, the petitioners are taking coercive steps to execute the decree of mandatory injunction directing the District Registrar to recognize the Form 7 submitted by the petitioners 1 to 3. Therefore, an appeal has been preferred against the judgment of the lower court and the said decree has to be stayed till the disposal of the appeal because it will go result in unlawful enrichment for the petitioners. Hence, IA was filed by the respondents seeking for stay of the operation of judgment and decree passed by the lower Court in favour of the petitioners 1 to 3 till the disposal of the appeal.

6.On the other hand, it is contended by the respondents at the time of filing the interim application, there was no caveat petition pending before the Court and they have not suppressed any fact before the Court. Subsequently, the issue with regard to



suppression of the receipt of the notice was settled by the trial Court.

7. The grievance of the petitioners is that if the interim stay passed by the lower Appellate Court is continued, the petitioners will be put to irreparable loss. During the enquiry conducted by the trial Court, the revision petitioners have filed a memo for transferring the case to some other Court. Hence, the respondents also contended that though the trial Court and the first Appellate Court observed that the grievance raised by the petitioners and the counter statement filed by the respondents with regard to the suppression of receipt of caveat notice, the first appellate Court has not passed any order in the said I.A. However, the lower Appellate Court has passed an interim order.

8. In view of the fact that the IA was heard by the lower appellate Court and both the petitioners and respondents have also advanced their arguments and documents were also filed on the issues involved in the case, especially, regarding the validity of Form 7 filed by both the parties, the first appellate Court is directed to dispose of the appeal, within a period of two months from the date of receipt of a copy of this order, since the interim order, dated 23.11.2018 granted in the said I.A.No.84 of 2018 in A.S.No.110 of 2018 is vacated.

9. Accordingly, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar (CS)

To

The learned Additional Subordinate Judge,
Tirunelveli.

+1cc to Mr.V.Panneerselvam, Advocate, SR.No.52162

+1cc to Mr.M.P.Senthil, Advocate, SR.No.52149

Order Made in

C.R.P. (MD) (PD) .No.144 of 2019
and

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SP/02.05.2019/ 3P/5C