



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 28.02.2019

DELIVERED ON : 12.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.R.P. (PD) (MD) No.1863 of 2015

1.CE Highter Secondary School,
Rep by the Correspondent,
Puthur, Trichy

2.James

.. Petitioners

Vs.

1.S.Lamache
2.A.Panneer Selvam
3.Viola Virginia
4.A.Parimala
5.Hendry Johnson
6.Sufiya Sulthana
7.D.Prabhu
8.K.Alrich Prem Kumar
9.K.Periasamy

..Petitioner 1 to 9/Respondents 1 to 9/
petitioner 1 to 9/Plaintiff 1 to 9

10.K.Palanisamy
11.Ananthi
12.Swarnatha

.. Respondents 10 to 12/Respondents 1 to 3
Respondent 2,5,6/Defendant 2,5,6

Prayer : This Civil revision petition is filed under Article 227 of the Constitution of India, to call for the records in I.A.No.204 of 2015 in I.A.No.761 of 2014 in O.S.No.1221 of 2014 on the file of II Additional District Munsif, Trichirappalli and struck off the same from the file of the learned II Additional District Munsif, Trichirappalli.

For Petitioners : Mr.B.Prasanna Vinoth
For Respondents 2, 5 to 9 : Mr.N.R.Murugesan
For Respondents 1, 10,11, 12 : No Appearance
For Respondents 3 and 4 : Dismissed vide Court order
dated 15.12.2017

ORDER

Heard Mr.B.Prasanna Vinoth, learned counsel appearing for the petitioners and Mr.N.R.Murugesan, learned counsel appearing for the respondents 2 and 5 to 9 .
<https://hcservices.ecourts.gov.in/hcservices/>



2.This Civil Revision Petition has been filed against the order passed in I.A.No.204 of 2015 in I.A.No.761 of 2014 in O.S.No.1221 of 2014 on the file of II Additional District Munsif, Trichirappalli.

3.The petitioners herein are the defendants 7 and 8 and the respondents 1 to 9 herein are the plaintiffs 1 to 9 and the respondents 10 to 12 herein are the defendants 2, 5 and 6 in the suit. The respondents 1 to 9 herein have filed a suit in O.S.No.1221 of 2014 for a prayer of mandatory injunction not to give any approval to the 8th defendant to become the Correspondent in the 7th defendant School and to declare the 8th defendant as unfit to hold the office of the 7th defendant School as Correspondent. The petitioners have filed a petition in I.A.No.761 of 2014 for temporary injunction and another petition in I.A.No.204 of 2015 for the detention of the defendants 2, 5, 6, 7 and 8 in the civil prison is filed for disobeying the order of the Court in I.A.No.761 of 2014 for their non-appearance, after receiving notice.

4.On the side of the petitioners, it is further stated that even after receiving the notice, the respondents failed to appear before the Court which amounts to contempt and that the contempt petition was filed. It is stated that the same person is acting as the Correspondent and Headmaster and that DRO has passed an order on 07.01.2015 with retrospective effect from 01.10.2014. When the case is pending, giving approval with retrospective effect is wrong and the Government has no locus standi to pass order with retrospective effect which amounts to misuse of power and already this Court in W.P.(MD)No.17799 of 2014 has set aside the order dated 14.11.2014 and the Court has ordered not to pass any orders until the civil suit decide the issue.

5.On the side of the respondents, it is stated that on the basis of the notice, a contempt petition was filed and there is no question of contempt as there is no order and that there is no cause of action for the contempt petition. When no order is passed in I.A.No.761 of 2014, I.A.No.204 of 2015 is filed for contempt. When there is no order, there is no question of contempt. No order of the Court is violated, notice is not an order and prayed I.A.No.204 of 2015 is to be struck off.

6.It is seen that there is a suit pending between the petitioners and the respondents and in the suit, I.A.No.761 of 2014 is filed. These petitioners were set exparte in that petition. I.A.No.204 of 2015 is filed against these petitioners to detain them in Civil prison for their non appearance, on receipt of the notice. For non appearance after receipt of the notice, the respondents have filed contempt petition against the petitioners herein. When there is no specific order of Court, there is no question of contempt. Hence, I.A.No.204 of 2015 is to be struck off.



7.The petitioners want to strick off the contempt petition. It is seen that instead of approaching the trial Court by filing counter in that I.A. petition, the petitioners have filed this petition before this Court which is unnecessary.

8.Hence, this Civil Revision Petition is allowed on condition of payment of Rs.5,000/- (Rupees Five Thousand only) to Mediation Centre, Madurai Bench of Madras High Court on or before 23.04.2019. I.A.No.204 of 2015 in I.A.No.761 of 2014 in O.S.No.1221 of 2014 on the file of II Additional District Munsif, Trichirappalli is strike of. For reporting compliance, post on 25.04.2019.

Sd/
Assistant Registrar(A.S)

/True copy/

Sub Assistant Registrar(CS)

Mrn

To

The II Additional District Munsif, Trichirappalli.

+1cc to Mr.N.R.Murugesan, Advocate in SR No.60982
+1cc to Mr.A.N.Ramanathan, Advocate in SR No.61083

C.R.P.(PD)(MD)No.1863 of 2015

NM/JM/03.05.2019/3P/4C