

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 01.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.R.P (MD) .No.1218 of 2019
and
C.M.P. (MD) .No.6842 of 2019

M.Karunambal ... Petitioner/Appellant/Respondent/
Defendant

Vs.

R.Vijayakumar ... Respondent/Respondent/Petitioner/
Plaintiff

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment dated 26.02.2019 passed in C.M.A.No.8 of 2017 by the learned Principal Subordinate Judge, Thanjavur, confirming the fair and decreetal order, dated 16.06.2017, passed in I.A.No.236 of 2016 in O.S.No.152 of 2016 by the learned District Munsif, Thanjavur.

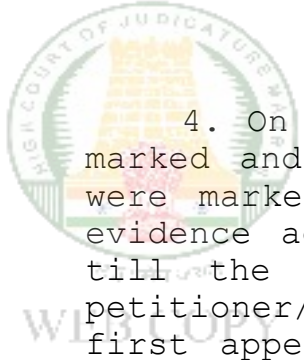
For petitioner : Mrs.K.R.Shivashankari

ORDER

This civil revision petition has been filed by the petitioner / defendant challenging the concurrent judgment passed by the Court below in C.M.A.No.8 of 2017 and in I.A.No.236 of 2016 in O.S.No.152 of 2016, granting temporary injunction.

2. It is seen that the respondent herein as plaintiff has filed the suit in O.S.No.152 of 2016 for permanent injunction. He also filed I.A.No.236 of 2016 for temporary injunction. According to the respondent/plaintiff, the suit property was purchased by his grandfather and his grandfather settled the suit property in his favour and one D.Arunkumar, who is his co-brother, by a registered Will dated 25.06.2000 and that he and his co-brother have been in possession and enjoyment of the suit property by obtaining Patta, Chitta, etc. in their name. While so, the petitioner/defendant, who is the owner of the northern side of the suit property, is attempting to encroach upon the suit property and hence, he has filed the suit.

3. According to the petitioner/defendant, the vendor of the respondent's / plaintiff's grandfather at no time was in possession and enjoyment of the petition mentioned property and the measurement of the suit property is totally wrong.



4. On the side of the respondent/plaintiff, Exs.P1 to P10 were marked and on the side of the petitioner/defendant, Exs.R1 to R8 were marked. The trial Court, after considering the documentary evidence adduced on either side, has granted temporary injunction till the disposal of the suit. Aggrieved by the same, the petitioner/defendant filed appeal in C.M.A.No.8 of 2017 before the first appellate Court. The first appellate Court, after hearing both sides, has dismissed the appeal, thereby confirmed the order passed by the trial Court. Challenging the said concurrent judgment, the petitioner/defendant has filed this revision petition.

5. Heard the learned counsel for the petitioner and perused the materials available on records.

6. Admittedly, the respondent / plaintiff has produced title documents, Patta, Chitta, Encumbrance Certificate, etc. in order to substantiate his contention. The petitioner/plaintiff has produced only house tax receipts, FMB sketch and Manaivari Thoraya Patta, in order to substantiate his contention. The Courts below, after considering the oral and documentary evidences adduced on either side, has come to the conclusion that *prima facie* case is made out by the respondent/ Plaintiff and accordingly, granted temporary injunction till the disposal of the suit. This Court does not find any reason to interfere with the said concurrent finding of the Courts below.

7. At this juncture, the learned counsel for the petitioner/defendant submitted that the suit has been filed in the year 2016 and hence, this Court may direct the trial Court to dispose of the suit within a stipulated time.

8. Considering the submission of the learned counsel for the petitioner/defendant, year of the suit and also stage of the suit, the trial Court is directed to dispose of the suit in O.S.No.152 of 2016 on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order. Both the parties are directed to cooperate with the trial Court for the early disposal of the suit.

9. This Civil Revision Petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1. The Principal Subordinate Judge,
Thanjavur.

2. The District Munsif,
Thanjavur.

+1 CC to M/s.K.R.SHIVA SHANKARI, Advocate (SR-79090[F] dated
01/08/2019)

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01.08.2019

gcg

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