

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).Nos.3516 of 2013 & 2304 of 2014

and
M.P.No.1 of 2013

C.R.P.(PD).No.3516 of 2013:

1.Balasundaram (died)

2.B.Sumathi

3.B.Sathyanarayanan

.. Petitioners

(Petitioners 2 and 3 are brought on record as LR's of the deceased 1st petitioner viz., Balasundaram vide order of this Court dated 24.09.2020 made in C.M.P.No.10341 of 2020 in C.R.P.(PD).No.3516 of 2013 and C.R.P.(PD).No.2304 of 2014)

Vs.

1.K.Venkatakrishnan

2.J.Srinivasan

3.M.Rajasekar

.. Respondents

C.R.P.(PD).No.2304 of 2014:

1.K.Venkatakrishnan

2.J.Srinivasan

3.M.Rajasekar

.. Petitioners

Vs.

1.Balasundaram (died)

2.B.Sumathi

3.B.Sathyanarayanan

.. Respondents

(Respondents 2 and 3 are brought on record as LRs of the deceased 1st respondent viz., Balasundaram vide order of this Court dated 24.09.2020 made in C.M.P.No.10341 of 2020 in C.R.P.(PD).No.3516 of 2013 and C.R.P.(PD).No.2304 of 2014 as per memo dated 18.09.2020 in USR.No.13587 of 2020)

Common Prayer: These Civil Revision Petition are filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 17.04.2013 in C.M.A.No.4 of 2012 passed by the Additional Sub Court at Puducherry against fair and decreetal order dated 20.12.2011 in I.A.No.184 of 2011 in O.S.No.112 of 2011 passed by the District Munsif Court at Puducherry.

In C.R.P.(PD).No.3516 of 2013:

For Petitioners : Mr.R.Rajesh
for Mr.J.Suresh

For Respondents : Mr.T.P.Manoharan,
Sr.Counsel

In C.R.P.(PD).No.2304 of 2014:

For Petitioners : Mr.T.P.Manoharan,
Sr.Counsel

For Respondents : Mr.R.Rajesh
for Mr.J.Suresh

COMMON ORDER

The matter is heard through Video Conferencing.

2.The issues involved in both the Civil Revision Petitions are interlinked and hence they are disposed of by this common order. The parties are referred to as per their rank in C.R.P.(PD).No.3516 of 2013.

3.Both the Civil Revision Petitions are filed to set aside the judgment dated 17.04.2013 made in C.M.A.No.4 of 2012, on the file of the Additional Sub Court, Puducherry filed against the fair and decretal order dated 20.12.2011 made in I.A.No.184 of 2011 in O.S.No.112 of 2011, on the file of the District Munsif Court, Puducherry.

4.The first petitioner is the plaintiff and the respondents are the defendants in O.S.No.112 of 2011. The first petitioner filed the suit against the respondents for permanent injunction restraining them from interfering with his peaceful possession and enjoyment of the suit property and not to alienate or encumber the 'B' schedule property. According to first petitioner, he is the absolute owner of 'A' schedule property and 'B' schedule property is part of 'A' schedule property. He is in possession and enjoyment of the property and respondents are trying to interfere with his possession and enjoyment and are trying to alienate 'B' schedule property. The respondents 1 & 2 and the 3rd respondent filed separate written statements. The first petitioner also prayed for interim injunction pending suit in I.A.No.184 of 2011. The respondents opposed the said petition. The respondents claimed title of the 'B' schedule property and contended that the first petitioner is not in exclusive possession of 'B' schedule property and he cannot claim any injunction against co-owners. The learned Judge considering the materials on record, dismissed the petition holding that the first petitioner is not in exclusive possession of suit properties. Against the said order of dismissal in I.A.No.184 of 2011 in O.S.No.112 of 2011, the first petitioner filed C.M.A.No.4 of 2012 on the file of the Additional Sub Court, Puducherry. The

learned Appellate Judge considering the entire materials, documents and the order of the learned Judge, held that the finding of the Trial Court that the first petitioner is not in exclusive possession is correct and both the first petitioner and respondents have filed documents to show that they have title over the 'B' schedule property and suit property is vacant land and it has to be proved that respondents are ousted from the suit property. Based on the said finding, the learned Appellate Judge partly allowed the C.M.A., granting interim injunction restraining the respondents from alienating the suit property, pending suit, holding that the first petitioner has made out a *prima facie* case only to restrain the respondents from making any encumbrance or alienation of the property.

5. Against the order of C.M.A.No.4 of 2012, the petitioners have filed C.R.P.(PD).No.3516 of 2013 and the respondents have filed C.R.P.(PD).No.2304 of 2014. Pending Civil Revision Petition, the first petitioner died and his legal heirs have been impleaded as petitioners 2 & 3.

6. Heard the learned counsel appearing for the petitioners as well as the learned Senior Counsel appearing for the respondents and perused the entire

materials on record.

7.Considering the relief sought for in the suit and that both the petitioners and respondents are claiming title over the 'B' Schedule property and claiming possession, without deciding the issue on merits, both the Civil Revision Petitions are disposed of directing the learned District Munsif, Puducherry to dispose of the suit as expeditiously as possible, in any event within a period of six months from the date of receipt of a copy of this common order after giving opportunity to the petitioners as well as respondents to let in oral and documentary evidence and decide the issue without being influenced by the order passed in I.A.No.184 of 2011 and judgment in C.M.A.No.4 of 2012, if the suit is not already disposed of.

8.With the above direction, both the Civil Revision Petitions are disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

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30.09.2020

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Index : Yes / No

Internet : Yes / No

To

1.The Additional Subordinate Judge,
Puducherry.

2.The District Munsif,
Puducherry.



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V.M.VELUMANI, J.

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C.R.P.(PD).Nos.3516 of 2013 & 2304 of 2014
and M.P.No.1 of 2013

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