

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

C.R.P.Nos.2485 & 2752 of 2019

and

C.M.P.Nos.16222, 23388 & 18095 of 2019

Suresh Babu .. Petitioner/ Defendant in both CRPs  
S/o.chinnasamy Naidu  
Vs.

N.Narayana Reddy ... Respondent in both CRPs  
S/O.Late Nanja Reddy

Prayer in C.R.P.No.2485 of 2019: Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the plaint in O.S.No.174 of 2015 on the file of the learned Principal District Munsif, Denkanikottai.

Prayer in C.R.P.No.2752 of 2019: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in C.M.A.No.10 of 2017, dated 19.07.2019 on the file of the learned Additional Subordinate Judge, Hosur reversing the order in I.A.No.460 of 2015 in O.S.No.174 of 2015 dated 11.08.2016 on the file of the learned District Munsif-cum-Judicial Magistrate, Denkanikottai.

For Petitioner : Mr.S.Ramasamy  
SC for Mr.B.K.Murthy

For Respondent : Mr.R.Jayaprakash

सत्यमेव जयते  
C O M M O N O R D E R

Revision in C.R.P.No.2752 of 2019, has been filed against the order granting injunction in favour of the respondent/plaintiff. Revision in C.R.P.No.2485 of 2019, has been filed to strike off the plaint in O.S.No.174 of 2015.

2. The petitioner is the defendant in the suit. The respondent herein filed the suit for permanent injunction restraining the petitioner herein from in any manner interfering with his peaceful possession and enjoyment of the suit schedule property and he has also filed an application seeking interim injunction pending suit. The trial Court dismissed the said application. Challenging the same, the respondent filed an appeal in C.M.A.No.10 of 2017 on the file of the learned Additional Subordinate Judge, Hosur. The lower appellate Court allowed the appeal thereby granting injunction

in favour of the respondent. Now, challenging the same, revision has been filed.

3. The suit has been filed on the ground that the suit schedule property is a joint family property of the plaintiff and he is one of the co-owner of the property. Earlier, partition suit has been filed by his father against his brother and a preliminary decree has been passed in the suit and now an appeal against it is pending before this Court in S.A.Nos.186 of 2012, 738 of 2012 and 215 of 2013.

4. Pending suit, the petitioner has purchased the suit schedule property from one of the brothers of the respondent who is one of the co-owner of the suit schedule property. Thereafter, alleging that the respondent has exclusive possession of the suit schedule property, present suit has been filed by the respondent seeking for injunction restraining the petitioner from interfering with the possession and enjoyment of the suit schedule property. Pending suit, the trial Court after considering the evidence both oral and documentary came to the conclusion that the documents does not prima facie show that the plaintiff is in exclusive possession of the suit property and the documents let in by the defendant also does not conclusively establish his exclusive possession of the suit schedule property. That apart, whether the purchase of the property by the petitioner is valid or not, it can be decided only in the suit, as the plaintiff has not establish his exclusive possession and hence he is not entitled for injunction and dismissed the application. Challenging the same, the respondent/plaintiff filed an appeal. The lower appellate Court without considering the documents filed by the parties in its proper prospective, and without giving any specific reason for reversing the judgement of the trial Court mechanically allowed the appeal, thereby setting aside the order passed by the trial Court and granted injunction to the plaintiff.

5. A perusal of the order passed by the lower Appellate Court, it can be seen that the lower appellate Court without considering any of the documents produced by the petitioner herein, simply allowed the application without assigning any reason and therefore the order of the lower appellate Court is liable to be set aside and accordingly set aside.

6. However, considering the fact that the suit is pending from the year 2015 and that the suit is only for permanent injunction, the learned District Munsif-Cum-Judicial Magistrate, Denkanikottai, is directed to dispose of the suit in O.S.No.174 of 2015, on merits and in accordance with law, after giving opportunity to both the parties, within a period of three months from the date of receipt of a copy of this order. Till the suit is disposed of, the parties are directed to maintain status quo as on today.

7. In the result, the C.R.P.No.2752 of 2019 is disposed of with the above direction and consequently the revision in C.R.P.No.2485 of 2019 seeking to strike off the plaint is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Subordinate Judge,  
Hosur.
2. The District Munsif-cum-Judicial Magistrate,  
Denkanikottai.
- 3.The Principal District Munsif, Denkanikottai.

+1cc to Mr.B.K.Murthy , Advocate SR.No. 14853

+2ccs to Mr.R.Jayaprakash , Advocate SR.No. 13728 13729

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A.SK(27/02/2020)

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