



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD)No.705 of 2018

and

C.M.P. (MD)No.3127 of 2018

WEB COPY

P.P.Ganesan

: Petitioner

.. Vs ..

D.Renugha

: Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order, dated 30.11.2017 passed in C.M.A.No.33 of 2017 on the file of the Principal District Court, Dindigul District, Dindigul, confirming the order in I.A.No.390 of 2017 in O.S.No.270 of 2017 on the file of the Additional Subordinate Court, Dingidul, dated 13.07.2017.

For Petitioner

:Mr.S.Rajasekaran

for Mr.T.Lajapathi Roy

For Respondent

:Mr.Janath Ahamed

ORDER

This Civil Revision Petition is filed by the defendant in the suit in O.S.No.270 of 2017 on the file of the Additional Subordinate Court, Dingidul.

2.The respondent herein, as plaintiff, filed the suit in O.S.No.270 of 2017 before the Additional Subordinate Court, Dingidul, for declaration of title and consequential injunction. Though the suit property consists of two items, it is now admitted before this Court by the learned Counsel for the petitioner that he has no claim or title in respect of suit first item and that the revision petition is only in respect of suit second item.

3.During the pendency of the suit, the respondent/plaintiff filed an application in I.A.No.390 of 2017 in O.S.No.270 of 2017 for injunction and the trial Court granted interim order to the effect that the revision petitioner shall not put up any construction in the suit property till the disposal of the suit. Aggrieved by the same, the revision petitioner preferred an appeal in C.M.A.No.33 of 2017 before the Principal District Court, Dindigul District, Dindigul. The lower appellate Court dismissed the appeal by confirming the order of trial Court. While dismissing the appeal, the lower appellate Court directed the trial Court to dispose of the suit within a period of four months from the date of receipt of a copy of that order. Aggrieved by the order of lower



appellate Court, the present revision petition is filed.

4.The learned Counsel for the revision petitioner started his arguments on merits, by stating that his vendor had title to the property and that the father of plaintiff's vendors had executed a sale deed long back and hence the subsequent alienation in favour of respondent is without title. The learned Counsel further submitted that the Courts below have failed to appreciate the facts, as borne out from the records and admitted facts. Though the learned Counsel for the petitioner pointed out that the document Ex-B17, dated 22.01.1964 was completely over looked by the Courts below and that the legal heirs of Oomayan has sold the property, after their father, by name, Oomayan, executed the sale deed under Ex-B17. This Court is not inclined to go into the merits of the case, having regard to the scope of interim application for injunction.

5.Normally, any Court is expected to preserve the rights of parties during the pendency of the proceedings. It is the endeavour of every Court to see that the rights of parties during the pendency of the proceedings is protected. In that view of the matter, the order of lower appellate Court granting an order of injunction restraining the defendants from putting up any construction in the suit property cannot be faulted. The lower appellate Court has directed the trial Court to dispose of the suit within the time stipulated. If the order is adhered to, the suit itself would have been over about two years back.

6.In such circumstances, with the direction to the trial Court to expedite the trial and dispose of the suit in O.S.No.270 of 2017 within a period of four months from the date of receipt of a copy of this order, this revision petition is dismissed. The order passed by the learned Principal District Judge, Dindigul District, Dindigul, in C.M.A.No.33 of 2017, dated 30.11.2017, confirming the order in I.A.No.390 of 2017 in O.S.No.270 of 2017 on the file of the Additional Subordinate Court, Dingidul, dated 13.07.2017, is confirmed. The trial Court may dispose of the suit uninfluenced by any of the observations of the Courts below or this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

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Sub Assistant Registrar(CS)

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To

1.The Principal District Judge, Dindigul District, Dindigul.

2.The Additional Subordinate Judge, Dingidul.

3.The Section Officer, (2opies)

V.R.Section,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-15605[F] dated 01/09/2020)

+1 CC to M/s.B. JANATH AHAMED, Advocate (SR-15851[F] dated 03/09/2020)

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