



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	10.12.2021
Pronounced on	17.12.2021

WEB COPY

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Civil Revision Petition Nos.2877 & 2878 of 2016

M.Arun Kumar ... Petitioner in both C.R.P's

vs.

Nanda Kumar,
S/o S.Mohan,
Rep by Power Agent
Mrs.P.Anbukkarasi
Old Door No.18/3, New Door No.6/157,
Vanniar 1st Street,
Choolaimedu,
Kodambakkam,
Chennai 600 094.

... Respondent in both C.R.P's

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 05.07.2016 made in I.A.Nos.5272 and 5273 of 2016 in O.S.No.3390 of 2013 on the file of XIII Assistant City Civil Judge, Chennai.

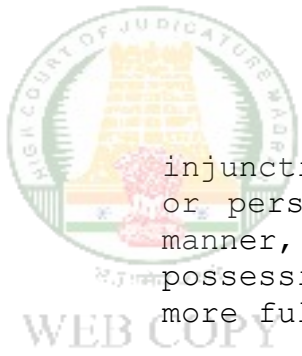
For Petitioner (both C.R.Ps) : M/s.Vedavallikumar
Vishnupriya Upendran

For Respondent (both C.R.Ps) : No Appearance

COMMON ORDER

The Civil Revision Petition Nos.2877 and 2878 of 2016 is filed challenging the order dated 05.07.2016 passed in I.A.Nos.5272 and 5273 of 2016 in O.S.No.3390 of 2013 respectively, on the file of XIII Assistant City Civil Judge, Chennai.

2.The Petitioner is a Defendant in the Suit O.S.No.3390 of 2013. The Plaintiff has filed the Suit for permanent



injunction by restraining the defendant or his men or servants or persons claiming right through him and in any way, in any manner, interfering or disturbing the plaintiff's peaceful possession and the enjoyment of Suit property in any manner, more fully described in the schedule of the property.

3.The learned counsel for the Petitioner submitted that, the Suit is in trial/part heard stage. The Petitioner/Defendant filed I.A.Nos.5272 and 5273 of 2016 under order XVIII Rule 17 read with R/W- 151 of Civil Procedure Code to Re-open and Recall PW1's evidence, which was closed on 22.03.2016 in O.S.No.3390 of 2013. When the applications were taken for hearing on 05.07.2016, counsel appearing for the Respondent/Plaintiff made an endorsement that, these applications may be allowed on terms and in the view of an endorsement made by the Respondent/Plaintiff, the applications were allowed on terms by directing the Petitioner/Defendant to pay a sum of Rs.250/- as a condition to the Respondent/Plaintiff by an order dated 22.06.2016.

4.Learned counsel for the Petitioner further submitted that, in the above petition, conditional order was passed on 22.06.2016 and posted the case on 30.06.2016 for reporting compliance and then, the case was posted on 05.07.2016. On 05.07.2016, the learned counsel was present and informed that, the conditional order was not complied and the cost was not paid as directed by this Court. Hence, the above petitions were dismissed. Since, the conditional order dated 22.06.2016 was not complied by the Petitioner/Defendant against the above dismissal order dated 05.05.2016, Petitioner/Defendant filed this Civil Revision Petitions.

5.Heard the learned counsel for the Petitioner.

6.It is evident that, the conditional order was passed on 22.06.2021 to pay a sum of Rs.250/- within five days and the case was adjourned to 30.06.2016 and then the I.A.Nos.5272 and 5273 of 2016 was closed on 05.07.2016 for Non-compliance of the conditional order.

7.The reason given by the Petitioner/Defendant is that, there was no representation on the side of the Petitioner/Defendant as the counsel on record was unwell and could not be present before the Court on 05.07.2016, and it is contrary to the orders passed by the learned Judge, where it is clearly stated that, the counsel for the Petitioner was present and informed that, conditional orders were not complied; cost



not paid. Hence, the petition was dismissed.

8.It is crystal clear and evident that, the learned counsel for the Petitioner/Defendant was present in the Court. Hence, the reason given by the Revision Petitioner that, there had been no representation on the side of the Petitioner/Defendant as the counsel on record was unwell and could not be present before the Court is not valid and tenable.

9.Considering the facts and circumstances of the above case, the order passed by the learned XIII Assistant City Civil Judge, Chennai in I.A.Nos.5272 and 5273 of 2016 in O.S.No.3390 of 2013 is hereby confirmed. Hence, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected C.M.P.Nos.14582 and 14583 of 2016 are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

vm

To:

The XIII Assistant City Civil Judge,
Chennai.

+2cc to Mr.Vedavalli Kumar, Advocate SR.No.68360 & 68361

C.R.P.Nos.2877 & 2878 of 2016

PM(CO)
GN(04/01/2022)