

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.1561 of 2017

and

C.M.P.No.7249 of 2017

S.Elumalai

.. Petitioner

Vs.

1.Paramasivam
2.Dhandapani
3.The Inspector of Police,
Thanipadai Police Station,
Thanipadai, Thandampattu Taluk,
Tiruvannamalai District.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 27.03.2017 made in I.A.No.258 of 2016 in O.S.No.114 of 2015 on the file of the Principal District Munsif, Tiruvannamalai.

For Petitioner : Mr.S.Ambigapathi

For Respondents : Ms.S.Sathiya (For R1)
for M/s.P.S.Kothandaraman

No appearance (For R2)

Dr.S.Suriya (For R3)
Government Advocate (CS)

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

Heard the learned counsel appearing for the petitioner, 1st respondent as well as the learned Government Advocate (CS), appearing for the 3rd respondent and perused the entire materials available on record.

2.The 1st respondent filed a suit in O.S.No.114 of 2015, on the file of the Principal District Munsif, Tiruvannamalai, against the petitioner, 2nd respondent and three others, seeking declaration and permanent injunction. Pending suit, the 1st respondent filed I.A.No.210 of 2015 for interim injunction. By the order dated 01.12.2015, the learned Trial

Judge granted interim injunction. According to the 1st respondent, inspite of interim injunction granted, the petitioner and 2nd respondent, on 02.01.2016, interfered with possession of 1st respondent and tried to put up a shed. The 1st respondent gave a complaint to the 3rd respondent herein, enclosing copy of the order of interim injunction granted. During enquiry by the 3rd respondent, the petitioner and 2nd respondent assured that they will not interfere with the possession of the 1st respondent, till disposal of the suit. Contrary to the same, again on 08.06.2016, the petitioner tried to up a shed. When the 1st respondent gave a complaint to the 3rd respondent, the 3rd respondent informed the 1st respondent that unless there is a specific order from the Court, the 3rd respondent cannot act on the complaint given by the 1st respondent. In such circumstances, the 1st respondent filed I.A.No.258 of 2016 in I.A.No.210 of 2015 in O.S.No.114 of 2015, for a direction to the 3rd respondent to give protection to the 1st respondent and prevent the petitioner and 2nd respondent from encroaching the suit property, in view of the interim order dated 01.12.2015. The petitioner filed counter statement and contested the said I.A. The learned Judge, considering the earlier order

dated 01.12.2015 made in I.A.No.210 of 2015, directed the 3rd respondent to give protection to the 1st respondent, if the petitioner and 2nd respondent violate the interim order dated 01.12.2015. Against the said order, the petitioner has filed the present Civil Revision Petition.

3.The learned counsel appearing for the petitioner made various submissions on merits of the suit and I.A.No.210 of 2015. The main contention of the learned counsel for the petitioner is that the 1st respondent is son-in-law of the petitioner and the suit property was sold to the 1st respondent to a meagre sum, on the assurance of the 1st respondent that he will take care of the petitioner and his wife. The learned counsel for the petitioner also contended that the 5th defendant had already filed O.S.No.21 of 2012, on the file of the Principal District and Sessions Court, Tiruvannamalai, for a declaration that the sale deed executed in favour of the 1st respondent is null and void.

4.The issue to be decided is whether the petitioner and 2nd respondent are trying to violate the interim injunction granted by the

Court on 01.12.2015 and the 1st respondent is entitled to protection from the 3rd respondent.

5.From the grounds raised in the Civil Revision Petition, it is seen that the petitioner has not stated that he and 2nd respondent are not violating the order of interim injunction dated 01.12.2015 granted by the Trial Court. The learned counsel appearing for the petitioner also has not stated that the petitioner and 2nd respondent are not encroaching the suit property in violation of order of interim injunction dated 01.12.2015. The learned Judge, after considering the interim order granted dated 01.12.2015, allowed I.A.No.258 of 2016, directing the 3rd respondent to give protection, if the petitioner and 2nd respondent violate the order of interim injunction. There is no error or irregularity in the order of the learned Judge, directing the 3rd respondent to give protection. The said order will come into effect only when the petitioner and 2nd respondent violate the order of interim injunction dated 01.12.2015. In the present Civil Revision Petition, the petitioner cannot argue on merits of the suit and I.A.No.210 of 2015. If the petitioner is aggrieved, it is always open

to him to take appropriate proceedings for raising interim injunction.

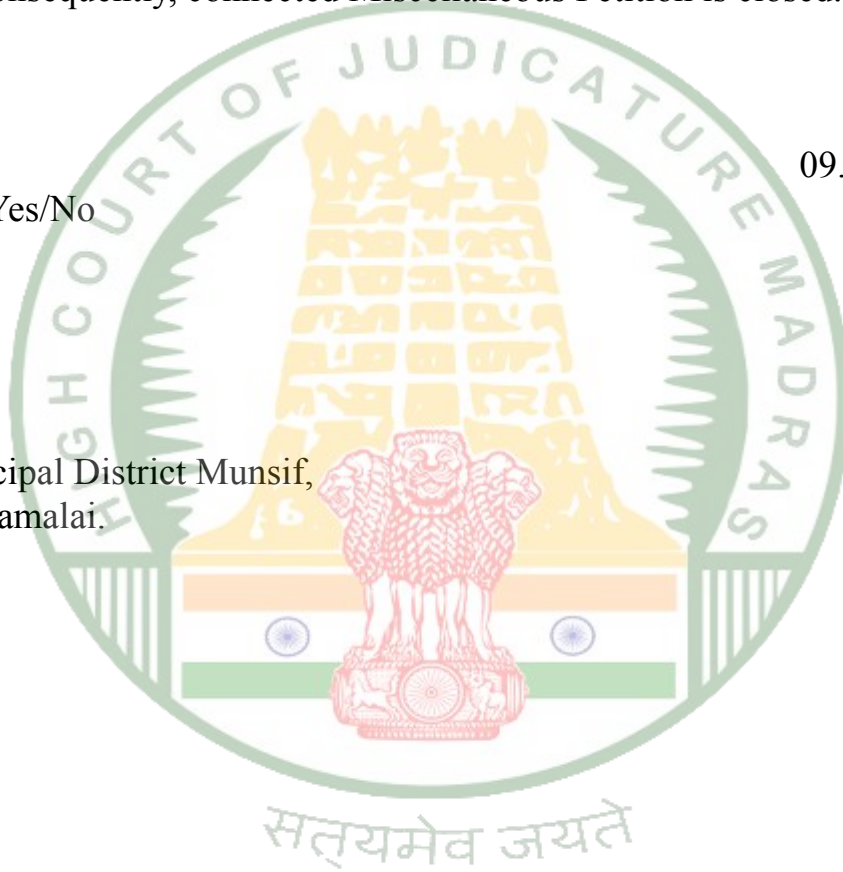
For the above reason, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.08.2021

Index :: Yes/No
gsa

To

The Principal District Munsif,
Tiruvannamalai.

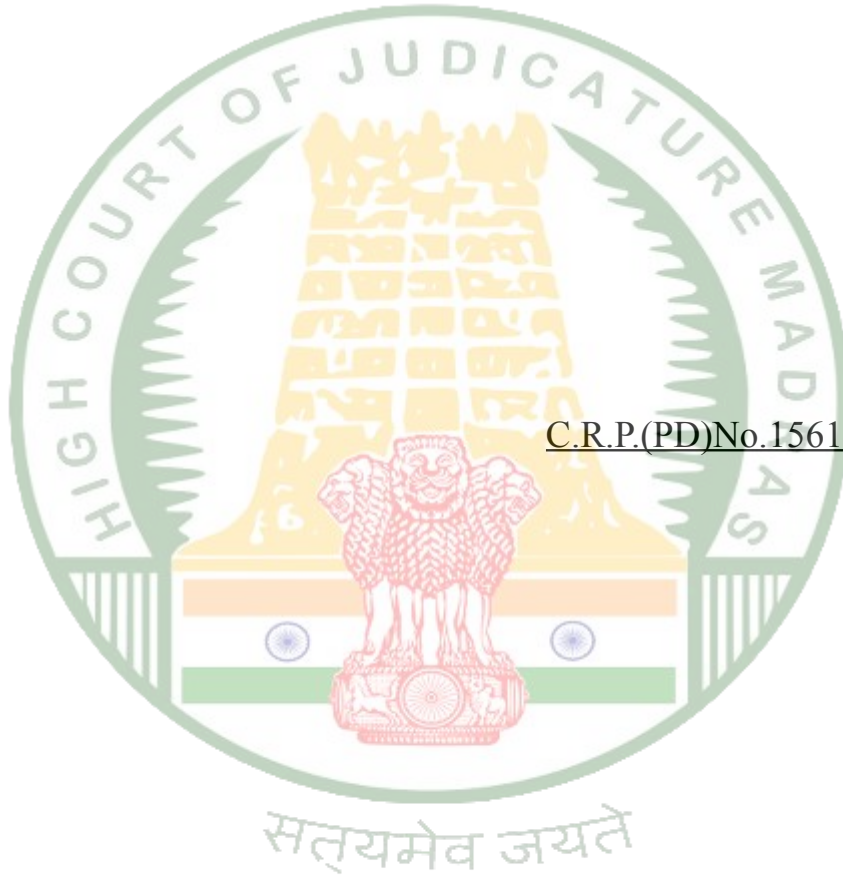


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V.M.VELUMANI, J.

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