



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2021

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THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P (MD) No.914 of 2021

and

C.M.P (MD) No.5163 of 2021

1.K.M.S.Mohideen Sahib

2.K.M.S.Siddiq Ahamed

... Petitioners/Appellants/Petitioner/Plaintiff

Vs.

Jeer Mutt

Thirukkurungudi,

Through its Power Agent S.Sivasankaran

S/o.Sivasubramanian

Thirukkurungudi

Nanguneri Taluk,

Tirunelveli District.

... Respondent/Respondent/Respondent/Defendant

PRAYER:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to allow the civil revision petition and set aside the fair order and decreetal order dated 26.03.2021 made in C.M.A.No.1 of 2020 on the file of Sub Court, Nanguneri, confirming the fair an decreetal order dated 12.10.2020 made in I.A.No.1 of 2020 in O.S.No.89 of 2020 on the file of District Munsif Court, Nanguneri.

For Petitioners	: Mr.M.Ajmalkhan Senior counsel for M/s.ajmal Associates
For Respondent	: Mr.K.Chandrasekaran Senior Counsel for Mr.M.Ramasamy

ORDER

The plaintiffs, whose application seeking injunction was dismissed and confirmed in appeal, are the revision petitioners before this Court.

2.The petitioners had filed a suit in O.S.No.89 of 2020 on the file of the District Munsif, Nanguneri for an injunction restraining

<https://hcservices.ecourts.gov.in/hcservices/>



the respondent madam from disturbing the petitioners peaceful possession and enjoyment of the suit property.

3.The property which belonged to the respondent was taken on lease by the petitioners' father for nearly 60 years ago and he had been cultivating the lands and paying the rents without fail. However, due to the failure of monsoon, cultivation could not be done and therefore, the rents could not be paid. The respondent madam had sent notice informing the petitioners that they intend to cancel the lease and therefore, they had to be restrained by an order of interim injunction from interfering with the petitioners peaceful possession and enjoyment of the suit property. Along with the plaint, the petitioners had also filed I.A.No.1 of 2020 seeking interim order of injunction on the very same lines.

4.The respondent madam has filed a counter *inter alia* contending that the registered lease agreement dated 04.10.2015 had been executed between the parties and under the terms of agreement, the lease was for a period from fasli 1425 to fasli 1429 (2015 to 2019). The petitioners had failed to cultivate the lands as agreed and therefore, the respondent was well within its right to cancel the lease. The lease cannot be extended and by the reason of the petitioners keeping the land fallow, the value of the property has been diminished. The petitioners, who are not in possession, are not entitled to seek an order of injunction.

5.The petitioners had produced Ex.P1 to Ex.P8 during the hearing of I.A.No.1 of 2020 and ultimately, the learned District Munsif, Nanguneri, had dismissed the application. The petitioners herein had filed CMA No.1 of 2020 on the file of the Subordinate Judge, Nanguneri, challenging the order passed by the learned District Munsif, Nanguneri. The learned Subordinate Judge, on perusing the records and hearing the parties, held that even as per the document filed by the petitioners, it is clear that the lands were kept vacant and there was no crop raised in the schedule property. Even as per the lease deed, dated 04.10.2015, the lease was only for a fixed period. Therefore, the learned Subordinate Judge held that the petitioners were not entitled to an order of interim injunction and accordingly, dismissed the said petition. It is aggrieved by this concurrent order, the petitioners are before this Court.

6.Heard the learned counsel appearing on either side and perused the records.

7.The petitioners seek to have an order of interim injunction stating that the respondent was interfering with their possession and enjoyment of the suit property. The case of the petitioners is that the suit property had been given on lease to them for the purpose of cultivation and the document produced on the side of the



petitioners has been examined by the Court below and both the Courts below have come to the conclusion that the property is not being cultivated by the petitioners and is therefore lying fallow. Therefore, the petitioners, who were taken the land lease for cultivation, are not putting the same to use. In fact, the petitioners, in their plaint, has categorically stated that for a few years, since there is no rain, there was no cultivation activity. Therefore, no prima facie case for grant of interim injunction has been made out by the petitioners and I do not find any error in the order passed by the learned Subordinate Judge, Nanguneri, in C.M.A.No.1 of 2020. Accordingly, this Civil Revision Petition is dismissed. However, the learned District Munsif, Nanguneri, is directed to dispose of the suit in O.S.No.89 of 2020 within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1.The Subordinate Judge,
Nanguneri.

2.The District Munsif,
Nanguneri.

+1 CC to M/s.M. RAMASAMY, Advocate (SR-35675[F] dated 24/11/2021)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-35510[F] dated 23/11/2021)

C.R.P (MD) No.914 of 2021
22.11.2021

BUC (CO)

KB(23.12.2021) 3P 5C