

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM:

THE HON'BLE Mr. JUSTICE N.SESHASAYEE

CRP(PD)No.535 of 2022
&
CMP.Nos.2800 & 2801 of 2022

1.Mr.R.Balasubramaniam
2.Mr.R.Prakash

... Petitioners/Respondents/
Defendants

Versus

Mrs.V.S.Jayarani

... Respondent/Petitioner
Plaintiff

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Order dated 13.09.2021 in I.A.No.1 of 2021 in O.S.No.372 of 2021 passed by the III Additional Sub Court, Coimbatore.

For Petitioner : Mr.A.Suresh Sakthi Murugan

O R D E R

In a suit filed by the tenant against civil ejectment by the defendant/lessor, the trial Court granted an order of interim injunction protecting the admitted physical possession of the property by the plaintiff in I.A.No.1 2021 Vide order dated 13.09.2021. This is now in challenge in this Revision under Article 227 of the Constitution.

2.The learned counsel for the Revision Petitioners tried to make a case that this Court can exercise its Power under Article 227 of the Constitution to interfere with the impugned order even without the Defendants/Revision Petitioners moving the first Appellate Court. He also touched upon certain facts of the case.

3.This Court could not find itself in the same page with the learned counsel for the Revision Petitioner. First, if the grounds for Revision is perused, one of the grounds reads that the respondent/plaintiff in the suit is busy cutting the

trees in the property after the lower Court has passed an order of interim injunction in I.A.No.1 of 2021. So far as this fact is concerned, the Revision Petitioners in the suit has equal procedural opportunity to invoke Order 39 Rule 1 and 2 to seek an order of injunction against the plaintiff.

4. There is merit in his submission that status quo may have to be preserved but, this is for which procedural law provides different mechanism and this Court, in this supervisory jurisdiction, cannot take note of subsequent facts which were not even considered by the trial Court in exercising its jurisdiction. Therefore, the Revision Petitioner's remedy lies elsewhere.

5. Turning to the other part, where the Revision petitioner is heard arguing that this Court cannot ignore Order 43 Rule 1 CPC which makes an order of injunction passed by the trial Court an appealable order to invoke the jurisdiction is concerned, this Court is not impressed. The powers Under 227 by its very nature is extraordinary and it can be invoked only when there is an apparent illegality or irregularity or that goes to the route of the matter and it is not in substitution of any procedural law, which specifically open avenues for providing remedies.

6. This Court therefore, does not find any merit in the Civil Revision Petition and accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Tsg

To

The III Additional Sub Court,
Coimbatore.

+1cc to Mr.A.Suresh Sakthi Murugan, Advocate, S.R.No.13979

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NSK 17/03/2022