



C.R.P.(PD).No.374 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2022

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.374 of 2022

and

C.M.P.No.1934 of 2022

I.M.S.Prabakaran

...Petitioner/Respondent/
Petitioner/Plaintiff

-V-

Auroville Foundation
Auroville, A Body Incorporated under
Auroville Foundation Act, 1988,
rep. by its Secretary,
having office at
Auroville Foundation Bhavan,
Auroville,
Vanur Taluk.

...Respondent/Appellant/
Respondent/Defendant



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Prayer: Petition filed under Article 227 of the Constitution of India against the Fair and Decreetal order dated 28.09.2021 passed in C.M.A.No.2 of 2019 on the file of the learned Principal Subordinate Judge, Tindivanam, in reversing the Fair and Decreetal order dated 28.01.2019 passed in I.A.No.182 of 2017 in O.S.No.26 of 2017 on the file of the learned District Munsif, Vanur.

For Petitioner : Mr.K.Myilsamy

ORDER

The petitioner herein is the plaintiff in the suit O.S.No.26 of 2017 on the file of the learned District Munsif, Vanur. The suit has been filed by the petitioner for a permanent injunction, restraining the defendant and his men, agent servant or any body on their behalf from interfering with the peaceful possession and enjoyment of the suit schedule property.



2.The plaintiff would submit that he is the absolute owner of the property situate in Irumbai Village, Vanur Taluk, Villupuram District, comprised in Old Survey No.155/1-3.31, New Survey No.164/1, measuring an extent of 1 acre 12 cents under a Settlement Deed dated 28.10.2013.

3.The plaintiff would submit that there are cashew trees in the property and in order to protect the same, he started the work of fencing it on 04.05.2017, at which time, the respondent along with some rowdy elements visited the spot and threatened the plaintiff. The plaintiff's father had lodged a complaint with the local police station. However, the police did not take up the complaint for investigation and simply assigned an C.S.R. Number. The defendants are very powerful persons in the locality and therefore, the petitioner has come forward with the suit.



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4. Pending the suit, an ad-interim injunction was granted. In fact, in their Written Statement, the defendants had contended that the suit property had been leased out to the respondent/Society by name Sri Aurobindho Society under a registered Lease Deed dated 08.07.2016 and it is the respondent/defendant who is in possession and enjoyment of the suit property. The cashew trees and other usufructs belonged to the defendant. The respondent/Defendant would submit that they have also cultivate other crops in the other suit property. They had categorically denied the possession of the plaintiff. However, the learned Judge has proceeded to allow the said application. The learned Judge has granted injunction on the ground that Ex.P.1 and Ex.P.2 which are the Settlement Deeds executed by the plaintiff's grandmother in his favour dated 28.10.2013 and a Sale Deed executed by the plaintiff in favour of Prabakaran dated 28.08.2014 would show possession with the plaintiff and the learned Judge stated that the defendant had not proved their title to the suit property. Challenging



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this order, the defendant had filed C.M.A.No.2 of 2019 on the file of the learned Principal Subordinate Judge, Tindivanam, and by order dated 28.09.2021 the learned Subordinate Judge was pleased to set aside the order of the learned District Munsif, Vanur. Challenging the above, the plaintiff is before this Court.

5.Heard the learned counsel for the petitioner and perused the papers.

6.A perusal of the order passed by the learned District Munsif, Vanur, does not refer to any document showing possession but proceeded on the basis of title of the plaintiff. The revision petitioner herein has filed Exs.P.1 and Ex.P.2 to prove their title whereas the defendant has not produced any document to show the title. The learned Judge has overlooked the fact that the petition before the Court is one for seeking an ad-interim injunction for which possession



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has to be proved. The learned Principal Subordinate Judge, Tindivanam, has relied upon Ex.R.2 – Sale Deed dated 28.08.2014 under which the petitioner has sold the property to one R.Prabakaran who in turn had sold the property to one S.Subramani on 02.09.2015 under Ex.R.3. The Sale Deeds have been executed both of which was prior to the filing of the suit, after these sales, the plaintiff is no longer the owner of the property. The same has not been pleaded by the plaintiff and therefore, he has come to Court with unclean hands. These documents have not been referred to by the learned District Munsif, Vanur. As pointed out, no documents have been filed on the side of the petitioner to prove possession and enjoyment on the date of filing of the suit either in the form of revenue document or otherwise.

7.The plaintiff has come to Court for an injunction and therefore, he has to prove his possession on the date of the Plaint. That apart, he has to come to Court with clean hands which is not the



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case on hand. The petitioner has deliberately suppressed the sales effected by him. Therefore, the order passed by the learned Principal Subordinate Judge, Tindivanam, does not require re-consideration.

Accordingly, this Civil Revision Petition is dismissed. Considering the fact that the suit is of the year 2017, the same shall be disposed of on or before 30.09.2022. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

17.02.2022

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
mps

To

1.The Principal Subordinate Judge,
Tindivanam.

2.The District Munsif,
Vanur.



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P.T. ASHA, J,

mps

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