



C.R.P.(PD) No.1166 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 05.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.1166 of 2022

M/s.DTwelve Spaces Pvt Ltd.,
Represented by its Authorised Signatory
54-55, Bagh Dewar, Ground Floor
Fatehpuri
New Delhi – 110 006.

Also at : Door No.708-711
Dr.Radhakrishnan Road
Tatabad, Coimbatore – 641 012.

... Petitioner/ Respondent /
1st Defendant

Vs.

1.B.Somaundaram
2.M.Sivaraman

... 1st Respondent / Petitioner / Plaintiff
... 2nd Respondent / 2nd Respondent /
2nd Defendant

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the docket order of exparte injunction granted vide dated 24.02.2022 in I.A.No.2 of 2022 in O.S.No.169 of 2022 on the file of learned Principal District Munsif, Coimbatore, and dismiss the application.



C.R.P.(PD) No.1166 of 2022

WEB COPY

For Petitioner : Mr.A.Ram Kumar

ORDER

The first defendant in O.S.No.169 of 2022 on the file of the Principal District Munsif, Coimbatore, has approached this Court with this revision challenging the docket order of exparte injunction granted by the trial Court against the defendants.

2. The reading of the plaint indicates that the plaintiff has developed his property and converted it into a certain residential apartments. It appears that the plaintiff and the first defendant have entered into a certain lease arrangement for payment of monthly rent of Rs.4.0 lakhs. According to the plaint, the plaintiff has been insisting for a registered lease deed before the first defendant to commence its intended business in the property. The plaintiff would however claim that without complying with his continuous insistence for registering the lease deed, the defendants, more particularly the first defendant has been keen to commence the business. He would submit that his efforts for seeking police intervention has also not evoked requisite response. Hence, he laid the suit for bare injunction that the



C.R.P.(PD) No.1166 of 2022

defendants should not commence the business without first entering into a written registered lease agreement with the plaintiff.

3. Along with the plaint, the plaintiff has taken out an application in I.A.No.2 of 2022 for an identical interim relief of injunction. This application came before the trial Court on 24.02.2022, and the trial Court has passed an exparte order of interim injunction and directed notice to the defendants. The matter then stood over to 10.03.2022. As per the jottings of the trial Court in the docket of I.A.No.2/2022, R1, the revision petitioner has filed the counter, and the matter was adjourned to 23.03.2022. The learned counsel added that on 10.03.2022, the first defendant/the revision petitioner has advanced its argument in I.A.2/2022. Now, only the plaintiff has to argue the case. When the matter came up before the Court on 23.03.2022, the plaintiff took time, and the matter was adjourned till today.

4. The grievance of the revision petitioner is that the Court that grants an exparte order of injunction, is obligated to dispose of the matter within a period of 30 days, but the learned District Munsif keeps adjourning the matter without completing the arguments in I.A.2 of 2022. He added that



C.R.P.(PD) No.1166 of 2022

when the matter came up before the trial Court today, the revision petitioner had insisted for a hearing, but the trial Court has mechanically adjourned the matter to 25.04.2022. In the course of this submission, the learned counsel also took this court through a statement showing payment of rent by it to the plaintiff from 30.01.2020, and also an agreement to lease dated 27.12.2019, which is long prior to the institution of the suit. He also made certain other allegations against the plaintiff which this Court considers is something which the trial Court may have to consider.

5. The grievance of the revision petitioner however appears to be that though the trial Court has heard the revision petitioner / first defendant in I.A.2/2022, yet it keeps accommodating the request of the plaintiff for adjournment for advancing his arguments which detrimentally affects the investment and jeopardises the commercial interest of the revision petitioner. Hence, the intervention of the Court to set aside the docket order passed by the trial Court, is sought in this revision.

6.1 This Court holds that while the trial Court is within its powers to pass an exparte order of injunction, yet testing merit of the plaintiff's case after a



C.R.P.(PD) No.1166 of 2022

completed hearing cannot be infinitely deferred. Order 39 Rule 3A CPC mandates that it has to be completed within 30 days. It is now on record that the learned Munsif has given a hearing to the revision petitioner on the very day when the case is posted for return of notice in I.A.No.2 of 2022, and he could not be faulted as having committed a breach of the stipulation under Order 39 Rule 3A CPC.

6.2 What however, this Court could not appreciate adequately is its excessive indulgence in accommodating the request of the plaintiff to argue his side of the case. It is important that he who obtains an ex parte order should be ready on the date, when the side which is aggrieved by such ex parte order insists for a hearing. The trial Court has an option here: It can either vacate the injunction, hear the plaintiff at his convenience, then pass an order on merit, or alternatively, it should ensure that the plaintiff argued the matter to enable it to pass an order within the stipulated time. If the plaintiff still refuses to argue or does not show anxiety to argue the matter, then still it has an option of vacating an injunction. However, to grant mindless adjournments at the expense of the interest of the defendants cannot be considered fair. It is necessary to remember, the CPC is



C.R.P.(PD) No.1166 of 2022

essentially a rule book of fairness, and this cannot be breached. As outlined earlier, I.A.No.2 of 2022 has been adjourned to 25.04.2022, and this Court cannot appreciate it at all.

7. Now, this Court directs the learned trial Judge to advance the hearing after giving notice to the plaintiff, and give the plaintiff an opportunity of being heard, and dispose of the matter on or before 29.04.2022. It is underscored that whether or not the plaintiff argues the matter, the said exercise should be completed and consistent with what is herein above indicated.

8. In the result, this revision is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

9. Post the matter on 29.04.2022, for reporting compliance by the trial Court.

05.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

Note : Issue order copy on 07.04.2022



WEB COPY



C.R.P.(PD) No.1166 of 2022

To:

The Principal District Munsif
Coimbatore.



WEB COPY



C.R.P.(PD) No.1166 of 2022

N.SESHASAYEE.J.,

ds

C.R.P.(PD) No.1166 of 2022

05.04.2022