



C.R.P(PD)No.2922 of 2021
and CMP.No.21009 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(PD)No.2922 of 2021

and

CMP.No.21009 of 2021

Usman Balarath

..Petitioner

Vs.

1.MalomChalilAysha

2.The Commissioner,
Mahe Municipality,
Mahe.

3.ThazheKovummal Siddique

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 02.02.2021 passed in CMA.No.1 of 2018 on the file of the Sub-ordinate Judge at Mahe, reversing the order dated 12.03.2018 in IA.No.173 of 2017 in OS.No.29 of 2017 passed by the District Munsif at Mahe.

For Petitioner : Mr.U.M.Sankaravel Murugan



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ORDER

Aggrieved by the order of the Appellate Court namely, the Sub-Court, Mahe, allowing CMA.No.1 of 2018, an appeal filed by the first respondent herein against an order of status-quo granted by the Trial Court in IA.No.173 of 2017, the plaintiff in OS.No.29 of 2017 is on revision.

2.The plaintiff sued for a permanent injunction restraining the 3rd defendant, who is the Commissioner of Mahe Municipality from sanctioning or issuing any type of license in the name of the defendants 1 and 2 or any other persons other than the plaintiff for conducting or running any type of business from the suit schedule property, restraining the defendants 1 and 2 from conducting or running any type of business from the suit schedule property and for costs of the suit.

3.According to the plaintiff, the defendants 1 and 2 had agreed to let out 20 rooms namely, the entire plaint schedule buildings to the plaintiff on a monthly rent of Rs.70,000/- and they have also received an advance of



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Rs.16,00,000/-. Contending that the defendants are attempting to lease out the property to others, the plaintiff has come up with the above suit. Pending suit, he has sought for an interim injunction restraining the respondents from sanctioning or issuing any type of license in the name of the respondents 1 and 2 or to another persons other than the plaintiff. The Trial Court, by its order dated 12.03.2018, directed the parties to maintain status-quo until further orders. Aggrieved, the 1st defendant in the suit, the owner of the property filed an appeal in CMA.No.1 of 2018 on the file of the Sub-Court, Mahe.

4.The learned Sub-ordinate Judge, upon analysis of the material placed before him, concluded that the plaintiff cannot seek such an order of injunction. The learned Sub-ordinate Judge held that the remedy of the plaintiff is a suit for specific performance of the lease deed and not permanent injunction. On the said conclusion, the learned Sub-judge, Mahe, allowed the appeal and dismissed the application in IA.No.173 of 2017.



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5.I have heard Mr.U.M.Sankaravel Murugan, learned counsel appearing for the petitioner.

6.Mr.U.M.Sankaravel Murugan would vehemently contend that having agreed to lease out the premises to the petitioner, the 1st respondent cannot allowed to wriggle out of the agreement and let out the property to various parties and realise rental income. As rightly pointed out by the Appellate Court, the plaintiff, who has entered into an agreement of lease cannot seek an injunction restraining the first defendant, who is the owner of the property from enjoying the property in the manner he wants. The plaintiff can at best enforce his rights and he cannot restrain the defendant from enjoying the property.

7.It is in this view of the matter, the learned Appellate Judge interfered in the appeal and vacated the status-quo granted. I do not see any reason to differ from the conclusion of the learned Sub-ordinate Judge. I refrain from expressing any opinion on the merits of the matter as the same would have an effect on the rights of the parties at the trial of the suit. It is suffice to point out that there is no error of jurisdiction or material



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irregularity in the order of the Trial Court to enable interference in a revision under Article 227 of the Constitution of India. Hence, this civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2022

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Index:No
Internet:Yes
Speaking

To-

- 1.The Sub-Court,
Mahe.
- 2.The District Munsif-cum-Judicial Magistrate,
Mahe.



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R.SUBRAMANIAN, J.

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