



CRP.PD.No.2102 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (PD) No.2102 of 2021
and
CMP Nos.15983 & 15985 of 2021

1. R. Murthy

2. M. Elangovan

3. P.Prabhu

4. M. Sakthivel

... Petitioners

Vs

R. Murthy

... Respondent

Prayer: The Civil Revision petition filed under Section 227 of the Constitution of India, against the order granting interim injunction dated 04.09.2021 made in I.A.No.2 of 2021 in O.S.No.165 of 2021 on the file of the learned District Munsif Court, Gobichettipalayam.

For petitioners

... Mr. N. Manoharan

For respondent

... Mr.M. Guruprasad



CRP.PD.No.2102 of 2021

ORDER

This Civil Revision directed against an ad-interim injunction order passed by the trial Court in the midst of hearing application for injunction.

WEB COPY

2. The respondent herein, as plaintiff, filed a suit in O.S.No.165 of 2021 on the file of the District Munsif Court, Gobichettipalayam, seeking permanent injunction, restraining the petitioners herein from interfering with his possession, except under due process of law.

3. The claim of the respondent in the suit is that he is in possession of the property as tenant and he has been registered as cultivating tenant of the suit property on 16.11.1987. This claim is being resisted by the petitioners herein contending that they had purchased the property for valuable consideration and they have been in possession of the property. Along with the suit an application in I.A.No.20/2021 was filed seeking temporary injunction. The learned District Munsif ordered notice returnable by 03.08.2021. Thereafter, counter was filed and in the process of enquiry, on 04.09.2021, the learned District Munsif granted Ad-Interim injunction till 09.09.2021. However, the application was not taken up and disposed of on



CRP.PD.No.2102 of 2021

09.09.2021, the interim order came to be extended. While the suit in O.S.No.165 of 2021 was filed before the District Munsif Court, Gobichettipalayam on 16.07.2021, the defendants in the suit, namely, the petitioners herein, filed a suit in O.S.No.117 of 2021 on the file of the Sub-Court, Gobichettipalayam seeking declaration of title and permanent injunction on 19.07.2021. They also sought for temporary injunction restraining the sole defendant therein, namely, the respondent herein from interfering with their possession of the property. The said suit is also pending.

4. The application, seeking transfer of the suit for permanent injunction pending before the District Munsiff Court to the Sub-Court, to be tried along with O.S.No.117 of 2021, is also pending before the Principal District Judge, Erode.

5. Mr.N.Manoharan, learned counsel appearing for the petitioners would vehemently contend that the trial Court has not considered the essential requirements of Order 39 Rule 1 CPC while granting ad interim



CRP.PD.No.2102 of 2021

injunction in the midst of hearing of the petition.

WEB COPY

6. Mr.M.Guruprasad, learned counsel appearing for the respondent would submit that the learned Trial Judge, in the course of hearing, felt that the petitioner has made out a prima facie case and since he also felt that the respondents in the injunction petition are attempting to drag on the proceedings, he granted an order of injunction.

7. On 16-07-2021, when I.A.No.2 of 2021 in O.S.No.165 of 2021 was moved, the learned trial judge felt that the petitioner had not made out a prima facie case and ordered notice returnable by 03-08-2021. Thereafter, he ought to have heard the parties in full and disposed of the application either way, he ought not to have granted an order of injunction for a limited period. The said order of injunction has also been stayed by this Court in this Revision. The stay order has been extended periodically. I am also informed that due to non-extension of the interim order, after some time, the learned District Munsif had extended the order of injunction granted by him.

8. It is abundantly clear that the subject matter of the suit in O.S.Nos.165 of 2021 and 117 of 2021 is one and the same and the suit in



CRP.PD.No.2102 of 2021

O.S.No.117 of 2021 is a comprehensive suit for declaration and injunction, whereas the suit in O.S.No.165 is only for permanent injunction. If these two suits are tried separately, there is always possibility of conflict of judicial verdicts at least with reference to possession. I am of the considered opinion that both the suits should be heard by the same Court. The suit in Sub Court being the comprehensive suit in O.S.No. 117 of 2021, exercising power under Article 227 of the Constitution of India, this Court withdraws the suit in O.S.No.165 of 2021 on the file of the District Munsif Court, Gopichettipalayam, and transfer the same to the Sub-Court, Gopichettipalayam, to be tried along with O.S.No.117 of 2021. All the Interlocutory applications shall also stand transferred.

9. The Sub-Court , Gopichettipalayam, is directed to dispose of both the injunction applications, namely, I.A.No.2 of 2021 in O.S.No.165 of 2021 and I.A.No.2 of 2021 in O.S.N.117 of 2021 within a month from the date of receipt of the papers from the Court. The District Munsif, Gopichettipalayam, is directed to ensure that papers in O.S.No.165 of 2021 are transmitted to the Sub Court, Gopichettipalayam on or before



CRP.PD.No.2102 of 2021

21.01.2022.

WEB COPY

10. In the interregnum, the parties are directed to maintain status quo. The transfer petition in Tr.O.P.No.49 of 2021 pending before the learned Principal District Judge, Erode, is withdrawn and dismissed.

11. With the above directions, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

11.01.2022

Index: Yes/ No
Speaking Order/Non-speaking Order
mrp
Note : Issue order copy on 20.01.2022
To

1. The District Munsif Judge,
Gobichettipalayam.
2. The Sub Judge,
Gobichettipalayam.
3. The Principal District Judge,
Erode.



CRP.PD.No.2102 of 2021

4. The Section Officer,
V.R.Section,
High Court, Madras.

WEB COPY



WEB COPY



CRP.PD.No.2102 of 2021

R.SUBRAMANIAN, J.,

mrp

CRP.PD.No.2102 of 2021

11.01.2022