



C.R.P(PD)No..904 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P(PD).No.904 of 2017

and

CMP.No.4432 of 2017

H.A.Gopal

..Petitioner

Vs.

1.Nibu Sayed

2.H.A.Balasubramaniam

3.The Tahsildhar,
Kotagiri Taluk, Kotagiri,
The Nilgiris.

4.The Revenue Divisional Officer,
Coonor, The Nilgiris.

..Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order dated 08.09.2016 made in C.M.A.No.8 of 2015 on the file of the Sub-ordinate Judge, Nilgiris reversing the order dated 27.04.2015 made in I.A.No.96 of 2014 n O.S.No.18 of 2014 on the file of the District Munsif, Kotagiri.



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For Petitioner : Dr.R.Gouri
For Respondents : Mr.K.K.Manavalan for R1
Dr.S.Suriya,
Additional Government Pleader
for R3 to R5
No Appearance for R2

ORDER

This revision petition has been filed, questioning the order dated 08.09.2016 passed in C.M.A.No.8 of 2015 on the file of the Sub-Court, Nilgiris. The said Civil Miscellaneous Appeal was filed, questioning the order dated 27.04.2015 passed in I.A.No.96 of 2014 in O.S.No.18 of 2014. The plaintiff in the suit is the revision petitioner herein.

2.The application in I.A.No.96 of 2014 had also been filed by the revision petitioner / plaintiff under Order 39 Rule 1 and 2 of C.P.C., seeking temporary injunction. Since the said application was allowed, the respondent herein filed the aforementioned Civil Miscellaneous Appeal. The order granted in I.A.No.96 of 2014 was reversed, necessitating the plaintiff to file the present revision petition.



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3.It would only be appropriate that the plaintiff goes back to the Trial Court to lead evidence. Relying under Order 39 Rule 9, would be of no effective help to the revision petitioner. The revision petitioner will have to lead evidence to establish the main issues in the suit. Navigating around the interlocutory application would not give the larger relief sought in the plaint to the petitioner / plaintiff.

4.Additionally, it is also informed that on 16.10.2019, the District Munsif-cum-Judicial Magistrate, Kotagiri had also dismissed the suit for default, owing to the fact that the plaintiff had not prosecuted the suit.

5.Nothing further survives. Hence, this Civil Revision Petition stands dismissed.

6.Again, it is urged the proper approach for the revision petitioner / plaintiff would be to conduct trial, graze the witness box and agitate the issues in the main suit instead of filing appeal or revision seeking interim injunction.



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7.This Civil Revision Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

23.02.2022

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Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking order



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To-

- 1.The Sub-ordinate Court,
Nilgiris.
- 2.The District Munsif Court,
Kotagiri.



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C.V.KARTHIKEYAN, J.

KKN

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