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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	04.03.2022
DELIVERED ON	31.03.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) No.256 of 2022

and

C.M.P. (MD) No.1148 of 2022

1.N.Ramanathan
2.N.Boominathan
3.N.Arumugam

...1st to 3rd Petitioners/R-2 to R-4/D-2 to D-4

Vs.

1.K.Balakrishnan ...Respondent/Petitioner/Plaintiff
2.N.Periyasamy ...Respondents/R-1/1st Defendant

PRAYER: Civil Revision Petition under Section 227 of Constitution of India, to set aside the fair and decreetal order dated 16.12.2021 made in I.A.No.2 of 2021 in O.S.No.196 of 2021 on the file of the learned Subordinate Court, Devakottai and allow the Civil Revision Petition.

For Petitioners :Mr.Niranjan S.Kumar, for
Mr.M.Shakul Hameed
For R-1 :Mr.V.K.Shanmuganathan
For R-2 :No appearance

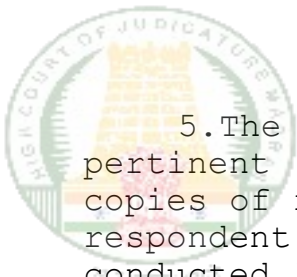
ORDER

This Civil Revision Petition has been filed against the order, dated 16.12.2021 in I.A.No.2 of 2021 in O.S.No.196 of 2021 passed by the learned Subordinate Judge, Devakottai.

2.The parties are referred to as per the rank mentioned before the Court below.

3.The plaintiff has filed a petition in I.A.No.2 of 2021 in O.S.No.196 of 2021 on the file of the learned Subordinate Judge, Devakottai, under Order 39, Rule 1 & 2 of Civil Procedure Code, for injunction and the same was allowed. Against the said order, the revision petitioners/D-2 to D-4 are before this Court.

4.Heard on either side and perused the material documents available on record.



5.The Civil Revision Petition is filed on the ground that it is pertinent to mention that the I.A.No.2 of 2021 was allowed and copies of fair order was passed on the same day and furnished to the respondent would clearly proves the way the entire proceedings are conducted by the Court below so as to help the respondent to grab the property of the revision petitioners in a most high handed manner without following due process of law and on this ground, the order passed by the Court below is liable to be set aside. The Court below also not look into the plaint, the cause of action of the respondent states that in the month of may 2021 the revision petitioners try to disturb the possession of the respondent. But, there is no single complaint or there is no legal notice has issued to the revision petitioners before instituting the above suit. Taking advantage of the order passed by the Court below in allowing the I.A.No.2 of 201, the respondent trying to grab the properties of these revision petitioners and the said facts are not considered by the Court below.

6.The 2nd to 4th defendants have filed a petition in I.A.No.2 of 2021 in O.S.No.196 of 2021 on the file of the learned Subordinate Court, Devakottai, under Order 39 Rule 1 & 2 of Civil Procedure Code, for temporary injunction and not to disturb the possession of the plaintiff and the same was allowed on 16.12.2021.

7.The plaintiff has filed a suit in O.S.No.196 of 2021 for permanent injunction to restrain the defendants from interfering with the possession of the plaintiff.

8.As per plaint, the plaintiff has purchased properties from the defendants in the year 2005. In support of his contention he has produced the said sale deed along with the plaint. The revision petitioners have admitted that they sold the properties to the plaintiff, but, they contended that they have not received any sale consideration and continued to be in possession.

9.The learned counsel appearing for the revision petitioners has further contended that instead of sale consideration, the plaintiff has agreed to give 50% of share in the plaintiff's concern.

10.The plaintiff has filed the sale deed. The defendants have also admitted that they sold the properties to the plaintiff's concern. Further admitted that, as per sale deed the possession of the properties have also handed over to the plaintiff. The defendants cannot go beyond the recitals of the registered sale deed that too executed by them.

11.At the time of I.A.2 of 2021 was posted for orders, the revision petitioners have filed a petition for receiving documents which was not considered by the Court below. The said documents are



also filed along with this Civil Revision Petition. The documents are not at all relevant to prove the possession of the defendants.

12. So, the Court below has rightly allowed the I.A.No.2 of 2021 in O.S.No.196 of 2021 and this Court has no valid reason to interfere with the order passed by the Court below.

13. Finally, this Civil Revision Petition is dismissed by confirming the order, dated 16.12.2021 in I.A.No.2 of 2021 in O.S.No.196 of 2021 passed by the learned Subordinate Judge, Devakottai. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ksa

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Subordinate Court,
Devakottai.

+1 CC to M/s.M.SHAKUL HAMEED, Advocate (SR-16135[F] dated 01/04/2022)

+1 CC to M/s.VR.SHANMUGANATHAN, Advocate (SR-16403[F] dated 04/04/2022)

C.R.P. (MD) No.256 of 2022
31.03.2022

NSN(CO)
KB(07.04.2022) 3P 4C