



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2022**

CORAM :

THE HONOURABLE MS.JUSTICE **P.T.ASHA**

C.R.P. (MD) No.2574 of 2014

and

M.P. (MD) No.1 of 2014

The Executive Officer,
Uppiliyapuram Panchayat,
Uppiliyapuram Village,
Thuraiyur Taluk,
Trichy District.

... Petitioner/Respondent/
Defendant

vs.

Kalaiselvan

... Respondent/Appellant/
Petitioner

PRAYER:- This Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 28.03.2014 passed in CMA.No.2 of 2014 on the file of the I Additional Subordinate Judge, Tiruchirappalli, (Thuraiyur Camp), reversing the fair and decreetal order dated 16.12.2013 passed in I.A.No.278 of 2013 in O.S.No.136 of 2013 on the file of the District Munsif Court, Thuraiyur.

For Petitioner : Mr.S.Sathish Kumar

For Respondent : Mr.K.S.Sankar Murali

ORDER

The Executive Officer of the Uppilliyapuram Panchayat, who is the revision petitioner before this Court, is challenging the injunction order granted by the learned 1st Additional Subordinate Judge, Trichy (Thuraiyur Camp) in CMA.No.2 of 2014 dated 28.03.2014.

2.The facts in brief are as follows:-

3.The respondent/plaintiff had filed a suit O.S.No.136 of 2013 for declaration that the notice issued by the defendant dated 25.06.2013 is illegal, unlawful and without jurisdiction and for consequential injunction. The plaintiff had stated that the larger extent of the suit property was purchased by his father under a registered sale deed dated 06.06.1974. The property comprised in



S.F.Nos.296/19 and 296/11 had thatched constructions and the eaves were projecting into the portion of the property to an extent of 1½ ft., by 8 ft., into S.F.No.296/10 and has been in existence for over 30 years. As this thatched roofing had fallen into ruins, the plaintiff was reconstructing the same as a terraced construction.

WEB COPY

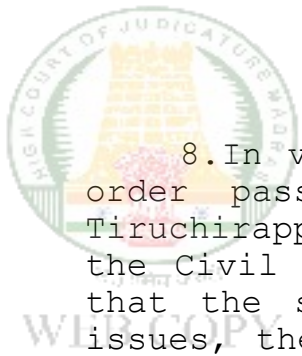
4.The plaintiff had submitted the necessary plan to the defendant Panchayat and the same was pending before them. The plan had been submitted over 4 months and there was no response from the respondent. As per the Tamil Nadu District Municipalities Act, permission had to be accorded within 3 months and in default thereof, there is a deemed sanction. Therefore, the petitioner went ahead with the construction. The property comprised in SF.No.396/10 is a Natham property and is remaining vacant. The persons inimically disposed towards the petitioner/plaintiff, had raised an objection and attempted to demolish the structure in SF.No.396/10. Therefore, the plaintiff had filed a suit O.S.No.126 of 2013 and obtained an order of injunction and that injunction is still in force. Thereafter, the defendant had issued the said notice threatening to demolish the structure to an extent of 1½ ft., by 8 ft., in SF.No.396/10. The defendant had issued the notice on the basis that the property belongs to them.

5.The plaintiff would submit that the property being a Grama Natham Government does not have any right to the same. Therefore, he had come forward with the above suit. Along with the suit, he had filed I.A.No.278 of 2013 for a temporary injunction. The said application was objected to by the defendant/respondent Panchayat claiming that the plaintiff had encroached into the land of the Government. Ultimately, by order dated 16.12.2013, the learned District Munsif, Thuraiyur, had rejected the application. Challenging the said order, the plaintiff had filed CMA.No.2 of 2014 on the file of the learned 1st Additional Subordinate Judge, Thuraiyur. The learned Judge by order dated 28.03.2014, was pleased to set aside the order passed by the trial Court, allow the appeal and grant an order of injunction. Challenging the same, the defendant Panchayat is before this Court.

6.Heard the learned counsels on either side.

7.The petitioner has not had the benefit of interim order of suspension from 2014. That apart, even according to the defendant, the petitioner has put up a construction in the suit property, the petitioner would claim that the same is a Natham property, whereas, the defendant would submit that it is a Government property. This is an issue, which has to be decided in the suit trial. Therefore, till such time as the issue is decided, the possession of the plaintiff has to be protected. It is also seen that in the suit O.S.No.126 of 2013, the petitioner had an order of injunction against the persons, who had attempted to demolish the structure. It is thereafter that

<https://hdsresorts.com/en/services/>



8. In view of the above, I do not deem it fit to set aside the order passed by the learned 1st Additional Subordinate Judge, Tiruchirappalli in CMA.No.2 of 2014 dated 28.03.2014. Consequently, the Civil Revision Petition stands dismissed. Considering the fact that the suit O.S.No.136 of 2013 is at the stage of framing of issues, the same shall be disposed of by the learned 1st Additional Subordinate Judge, Tiruchirappalli on or before 31.08.2022. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mm

To

1.The 1st Additional Subordinate Judge,
Tiruchirappalli.

2.The District Munsif,
Thuraiyur.

+1 CC to M/s.K.S.SANKAR MURALI, Advocate (SR-3282[F] dated 01/02/2022)

C.R.P. (MD) No.2574 of 2014

31.01.2022

RK(14/02/2022) 3P 4C