



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .Nos.2627 to 2629 of 2017

and

C.M.P. (MD) .No.12089 of 2017

WEB COPY

J.Jobitharaj

... Petitioner in all C.R.Ps.

vs.

1.Malikthinar Baithulmal

A body of Association of Persons,
represented by its President.

2.Malikthinar Baithulmal,

A body of Association of Persons,
represented by its Executive Committee,
by its Secretary,
R1 and R2 having office at
Pon Arippu Street, Kottar,
Nagercoil, Agasteeswaram Taluk,
Kanyakumari District.

... Respondents in all C.R.Ps.

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decreetal order in I.A.Nos.810, 811 and 812 of 2017 in O.S.No.359 of 2011, dated 04.11.2017, on the file of the learned Principal District Munsif, Nagercoil.

For Petitioner : Mr.S.Suresh Kumar

For R1 : Mr.M.P.Senthil

C O M M O N O R D E R

These Civil Revision Petitions have been filed against the order passed by the learned Principal District Munsif, Nagercoil in I.A.Nos.810 to 812 of 2017 in O.S.No.359 of 2011, dated 04.11.2017.

2. The above I.A.Nos.810 to 812 of 2017 were filed by the revision petitioner/plaintiff under Rule 76 of Civil Rules of Practice, to summon the Sub Registrar, Kottaram to produce the document and adduce evidence, to summon the Branch Manager, Canara Bank, Kanyakumari to prove the factum of payment of Rs.14,00,000/- made by the petitioner/plaintiff to Malikthinar Baithulmal, Kottar through Cheque Nos.530821 and 530822, dated 12.07.2007 and to summon the Executive Officer, Kanyakumari Special Grade Town Panchayat to



prove the permission granted to the petitioner/plaintiff to put up construction in Survey No.609/2008.

3. According to the learned counsel for the petitioner, those documents are relevant for the adjudication. However, learned counsel appearing for the first respondent submitted that those documents are not at all required. The finding of the Court below is that the present suit was filed for permanent injunction and the aspect of possession of the petitioner/plaintiff over the suit property and the construction made by him not at all disputed. Under this situation only the Court below has dismissed the applications filed by the petitioner/plaintiff stating that in order to prove the possession of the plaintiff, the documents sought by the petitioner by way of the applications are not at all required. In the injunction suit, no doubt it is the duty of the plaintiff to prove his possession and on that basis, the Court can grant relief.

4. In the present case, the possession of the petitioner over the suit property is not at all disputed by the respondent. Therefore, I do not find any infirmities in the order passed by the Court below and no substance in the submission made by the learned counsel for the petitioner. Hence, the Civil Revision Petition is liable to be dismissed with cost. However, this Court is not inclined to impose cost.

5. In the result, these Civil Revision Petitions are dismissed. Since the suit is pending from 2011, the learned Principal District Munsif, Nagercoil is directed to dispose of the suit in O.S.No.359 of 2011 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

To

The Principal District Munsif,
Nagercoil.

C.R.P. (PD) (MD) .Nos.2627 to 2629 of 2017

18.03.2022

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