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CRP No.4398 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

CRP No.4398 of 2015 and M.P.No.1 of 2015

Arachelvam

... Petitioner

Vs

1.Sundar Singh

2.Santhi Bai

3.Yokeswari Bai

4.Shakila Bai

(Respondents 2 to 4 are brought on record
as LR's of the sole respondent viz., Sundar
Singh vide court order dated 23.03.2021
made in CMP Nos.2858, 1859 and 2862/2021)

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order in CMA No.7 of 2013 passed by the learned Principal Subordinate Judge, Villupuram dated 07.07.2015 by confirming the fair and decreetal order in I.A.No.208 of 2013 in O.S.No.76 of 2013 passed by the Principal District Munsif, Villupuram.

For Petitioner : Mr.C.Uma Shankar

For Respondents : R.1 – died Steps taken
R.2 to R.4 – served – no appearance



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ORDER

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The plaintiff in a suit for permanent injunction is the civil revision petitioner. The suit was filed fearing dispossession at the hands of the defendants. According to the plaintiff, he had paid a sum of RS.5,00,000/- (Rupees Five lakhs only) to the defendants and had entered into a shop rental agreement under Ex.P.1. He states that he continues to pay the property tax and since the defendants attempted to dispossess the plaintiff from the property, he came forward with a suit for bare injunction.

2. A counter has been filed, whereunder, the factum is that the plaintiff had put up lock over the premises. This tacitly admits the possession of the plaintiff. However, the trial Court as well as the lower appellate Court held against the plaintiff on the basis that the documents filed by the plaintiff are inadmissible.

3. Mr.C.Uma Shankar, learned counsel submits that after the suit was filed and a day after the injunction was denied, the plaintiff was dispossessed from the property.



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4. In a suit for permanent injunction, the Court has to see only whether the plaintiff was in lawful possession of the property on the day of the presentation of the plaint. If a person who is in possession of the property has been dispossessed pending the suit, he need not be pushed to a separate suit. If the court comes to a conclusion that on the date of the presentation of the plaint, he was in possession of the property, it can mould the relief and grant the relief which would be appropriate as the circumstance warrant. Such circumstances would also mean a decree for recovery of possession of a person dispossessed forcibly from the property pending the litigation.

5. However, considering the factum that the courts below have concurrently came to the conclusion on the dismissal of the injunction application, I am not inclined to interfere with at this distance of time. Suffice it to request the learned Principal District Munsif, Villupuram to take up the suit in O.S.No.76 of 2013 which is said to be pending even as on today and dispose of the same within a period of nine months from the date of receipt of a copy of this order.



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V.LAKSHMINARAYANAN,J.

Sr

6. It is needless to point out that the trial court should dispose of the suit on the basis of the evidence recorded by it uninfluenced by any observation or orders that have been passed in the interlocutory stage.

7. With the above observation, the civil revision petition is dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

13.07.2023

Index:Yes/No

Speaking order/Non-speaking order

sr

To

1. The Subordinate Judge, Villupuram
2. The Principal District Munsif, Villupuram

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