



CRP (NPD) No.1474 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P (NPD) No.1474 of 2023
and C.M.P.No.9769 of 2023

1.R.Karuppusamy
2.V.Jeevanantham

.. Petitioners

VS

1.K.Palanisamy
2.M/s.Maris Cements Pvt. Ltd.
Rep. by its Managing Director,
P.Pynthamil,
No.1996, Krishna Colony, Trichy Road,
Coimbatore District-641 005.
3.M.Siva
4.P.Pasupathy
5.B.Selvi
6.B.Tamilarasan
7.B.Dinesh
8.V.Mani

.. Respondents

Prayer: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the order in Tr.O.P.No.246/2022 on the file of Principal District Court, Coimbatore by an order dated 22.02.2023.

For Petitioners : Mr.P.Saravanan



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ORDER

The petitioners are the second and ninth defendants before the Principal District Munsif Court, Coimbatore in O.S.No.637 of 2022. The said suit has been filed by the first respondent herein to restrain the petitioner and other defendants and their men, agents or any persons claiming through them from disturbing or interfering with the plaintiff's peaceful possession and enjoyment of the suit schedule properties by way of permanent injunction.

2. In the aforesaid suit, the first respondent/plaintiff has filed I.A.No.2 of 2022 on the file of the Principal District Munsif Court, Coimbatore seeking for temporary injunction pending disposal of the above suit. Subsequently, the first petitioner/second defendant has filed I.A.No.11 of 2022 on the file of the Principal District Munsif Court, Coimbatore, seeking to reject the plaint on the ground that the plaint does not disclose the cause of action.



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3. It is the case of the petitioners that the petitioners have filed a copy application for receiving a copy of the plaint, affidavit and petition in I.A.No.2 of 2022 filed by the first respondent, the said copy application has been returned. It is submitted that the learned Principal District Munsif, Coimbatore, has however entertained I.A.No.3 of 2022 filed by the respondent for police protection to the respondent though the petitioners have filed I.A.No.11 of 2022 to reject the plaint on the ground that the plaint does not disclose the cause of action. The petitioners have filed Tr.O.P.No.246 of 2022 to the Principal District Munsif, Coimbatore to transfer the case which has been rejected vide impugned order dated 22.02.2023 with the following observations:

“4. The point for consideration :

Whether the petition is to be allowed or not?

5. Point I have heard both sides and considered the contentions raised by them. This Court has also called for report from the Presiding Officer. On perusal of the same, it shows that the Judicial Officer has denied the allegations that he has not given opportunity to the defendants No.2 and 9. In his report, he has stated that the defendant No.9 Jeevanandam has not filed his counter in



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I.A.No.2/2022. Similarly, the other defendants 3 to 8 were also not appeared on 06.07.2022 and thrice, it was called before the Court and at about 05.00 p.m., the defendants No.2 to 8 were called absent set exparte. He has also stated that if the parties are ready to adduce the arguments, the matter will be considered on merits and order will be passed.

6. Admittedly, the petition filed by the defendants No.2 and 9 for vacating injunction, has been numbered as I.A.No.8/2022 and I.A.No.9/2022 and the same are already pending. The major allegation against the Presiding Officer stated by the petitioners is that he has not heard the arguments of the respondents i.e. the defendants No.2 and 9 in the injunction petition. Whereas, the defendants No.2 and 9 have not filed their counter on 06.07.2022 and also now only their petition in I.A.No.8/2022 for vacating injunction, has been numbered. Similarly, they have also filed I.A.No.11/2022 for rejection of plaint and the same is also pending.

7. In similar circumstance, the Hon'ble High Court, Madras, in the case of Mrs.Mahadevi vs Mrs. Amudha reported in 2006 (1) MLJ 37, has held that "the delay in taking up the application for hearing, shall not be the ground to transfer the suits". Similarly, in the case of Manoharan Vs Enercon India Limited reported in 2007 (1) MLJ 420 (Mad), it is held that it would be dangerous principle to transfer the case merely on the ground that Court is declining long adjournments. In this case, circumstances, based on the vague allegations, this transfer application



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is filed and the Judicial Officer has given report stating that further proceedings will be taken up if the parties are ready to argue the matter and now the pleadings have been completed and ready for enquiry. I am of the view that directing the parties appear before the trial court and submit their arguments would be appropriate order and this Court is not inclined to allow this transfer application based on vague allegations the Presiding Officer has not come forward to hear the arguments and the same is not a ground to allow this transfer application. Accordingly, this petition is liable to be dismissed.

In the result, this petition is dismissed. No costs.”

4. I have considered the arguments advanced by the learned counsel for the petitioners.

5. I do not find any merits challenging the impugned order passed by the Principal District Munsif, Coimbatore in Tr.O.P.No.246 of 2022 vide order dated 22.02.2023. The petitioners have not made out a case for transfer O.P. Suffice to state that there shall be a direction to the learned Principal District Munsif, Coimbatore, to dispose of I.A.No.11 of 2022 filed by the first petitioner for rejecting the plaint. There shall also be a consequential direction to the learned Principal District Munsif, Coimbatore,



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to issue a certified copy of the plaint and document sought for by the petitioners vide copy application dated 07.07.2022. Learned Principal District Munsif, Coimbatore, shall dispose of I.A.No.11 of 2022 in O.S.No.637 of 2022 filed by the petitioners and as also I.A.No.2 of 2022 in O.S.No.637 of 2022, as expeditiously as possible, preferably, within a period of three months from the date of receipt of a copy of this order.

6. This Civil Revision Petition stands disposed with the observations.

No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Internet : Yes/No

Speaking : Non Speaking Order

kcd/kal

To

The Principal District Munsif,
Coimbatore.



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C.SARAVANAN.J
kkd/kal

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