



CRP (PD) No.1398 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

CRP (PD) No.1398 of 2023 and
CMP Nos.9415 and 9416 of 2023

S.Thiyagarajan

... Petitioner

Vs.

P.Sitharthan

... Respondent

Prayer: The Civil Revision petition filed under Article 227 of Constitution of India, seeking to set aside the fair and decreetal order passed in CMA No.1 of 2022 dated 12.01.2023 on the file of the Subordinate Court, Mettupalayam against I.A.No.2 of 2022 in O.S.No.23 of 2022 on the file of the District Munsif, Mettupalayam.

For Petitioner : Mr.Avinash Wadhwani for
Ms.Srimathi.V

For Respondent : Mr.T.Gowthaman,
Senior Advocate for
Mr.D.Parventhan



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ORDER

This Civil Revision is filed against the fair and decreetal order passed in CMA No.1 of 2022 dated 12.01.2023 on the file of the Subordinate Court, Mettupalayam against I.A.No.2 of 2022 in O.S.No.23 of 2022 on the file of the District Munsif, Mettupalayam.

2. This matter is taken up for final disposal at the admission stage itself by consent of both counsels.

3. It is the case of the petitioner that originally the suit in O.S.No.23 of 2022 on the file of the District Munsif, Mettupalayam, has been filed seeking permanent injunction against the respondent/defendant. During the pendency of the suit, he has moved an application in I.A.No.2 of 2022, seeking temporary injunction. Though the same was granted initially, subsequently it was vacated. Aggrieved against the said order dated 03.06.2022, the petitioner preferred an appeal in CMA No.1 of 2022 before the Sub Court, Mettupalayam. On hearing both side, the learned Sub Judge, Mettupalayam, dismissed the appeal. Hence, this Revision.

4. Heard the learned counsel for the petitioner and the learned



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senior advocate for the respondent and perused the materials available on
WEB COR record.

5. The learned counsel for the petitioner submitted that in the affidavit of I.A.No.4 of 2022, the respondent had undertaken that he will not create any disturbance and that if the petitioner attempts to remove the temporary huts in the property unlawfully, the respondent would most likely rush into the spot and commit some wrongful act. The learned counsel for the petitioner has further submitted that the respondent has unlawfully erected some huts in the suit property and therefore he sought for interference by this court.

6. The learned Senior counsel appearing for the respondent has submitted that since the respondent has admittedly entered into the schedule mentioned property and erected some huts, the petitioner cannot seek the relief of temporary injunction against the respondent from interfering with the schedule of the property.

7. Considering the circumstances and on perusal of the orders



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placed before this Court and the submission made by the learned counsel appearing on either side, this Court directs the respondent to maintain *status quo* in respect of the schedule mentioned property which is the subject matter of the suit in O.S.No.23 of 2022 on the file of the District Munsif, Mettupalayam. Further, it is submitted by the learned counsel for the petitioner that the petitioner intends to file a petition under Section 6 of the Specific Relief Act, against the respondent and if such an application is filed, the trial Court is directed to entertain the same, without influenced either by the order of this Court or by the order of the appellate Court and pass appropriate orders on merits and in accordance with law.

8. With the above observation, this Civil Revision Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

26.04.2023

vum
Index: Yes/No
Speaking order / Non speaking order

DR.D.NAGARJUN, J.



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