



C.R.P.No.1770 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

C.R.P.No.1770 of 2019

and CMP No.11498 of 2019

1. Mohammed Taher

2. Mrs.Sarojini Rajendran

... Petitioners/
Respondents 5 & 20/Defendants 5 & 20

Vs.

1. M/s.Spacio Infrastructures
Represented by its Partners
1. Gurunathan, 2. Mrs.G.Indira
3. Mrs.G.Santosh Kumar

2. Mr.T.Gurunathan



C.R.P.No.1770 of 2019

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3. Mrs.G.Indira

4. Mr.G.Santhosh Kumar

5. Mr.Lokesh

6. Mr.S.Gunasekaran

7.Mrs.Sangeetha

8. Mrs.Uma Mageswari

..Respondents 5 to 8/

..Respondents 1 to 4 /

Defendants 1 to 4

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned docket order dated 29.04.2019 passed in I.A.No.464 of 2019 in O.S.No.89 of 2019 by the learned District Munsif cum Judicial Magistrate's Court, Sriperambudur.

For Petitioner : Mr.A.Aravindan

For Respondent : Mr.Arun Anbumani for

R5 to R8

R1, R4 - No appearance



C.R.P.No.1770 of 2019

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ORDER

This Civil Revision Petition has been filed by the defendants 5 and 20, aggrieved by the order passed by the Court below in I.A.No.484 of 2019 dated 29.04.2019 permitting the respondents 1 to 4/ plaintiffs to display the caution notice in the suit property.

2. The respondents 1 to 4/ plaintiffs filed a suit seeking for the relief of permanent injunction. There were totally 21 defendants in the suit. The petitioners herein (defendants 5 and 20) anticipated that the plaintiffs will move a suit and secure an exparte order behind their back and hence, they filed a Caveat Petition in Caveat Petition No.247 of 2018. However, when the suit was filed and interlocutory applications were moved in I.A.No.25, 26 and 27 of 2019, the plaintiffs made an endorsement to the effect



C.R.P.No.1770 of 2019

WEB COPY

that no Caveat is pending. These interlocutory applications were heard by the Court below and notice was ordered to the respondents / defendants. This process was going on for some time.

3. The respondents 1 to 4 / plaintiffs in the meantime filed I.A.No.466 of 2019 for advancing the hearing of the interlocutory applications and they also filed I.A.464 of 2019 to permit them to display a caution notice in the suit property in order to caution the general public from dealing with the property.

4. The Court below took up for hearing IA No.464 of 2019 and proceeded to pass an order dated 29.04.2019 permitting respondents 1 to 4 / plaintiffs to display a caution notice in the suit property. Aggrieved by the same, this Civil Revision Petition has been filed before this Court under Article 227 of the Constitution of India.



C.R.P.No.1770 of 2019

WEB COPY

5. Heard Mr.A.Aravindan, learned counsel for the petitioner and Mr.Arun Anbumani, learned counsel for respondents 5 to 8. Respondents 1 to 4 have been served with notice and their names have also been printed in the cause list. The learned counsel appearing on behalf of respondents 5 to 8 brought to the notice of this Court that the respondents 2 and 3 died during the pendency of this Civil Revision Petition and as of now, the only surviving plaintiff is the 4th plaintiff. The learned counsel further submitted that the respondents 4 and 5 are the legal heirs of the deceased respondents 2 and 3. Since the legal representatives of the respondents 2 and 3 are already available on record, the demise of the respondents 2 and 3 during the pendency of this Civil Revision Petition does not in any way result in abatement of the proceedings.

6. The main ground that was urged by the learned counsel



C.R.P.No.1770 of 2019

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for the petitioners is that the petitioners had already filed a caveat petition and inspite of the same, the plaintiffs failed to serve notice to the petitioners in the interlocutory applications in I.A.No.25, 26 and 27 of 2019. That apart, they also made an endorsement to the effect that no caveat was pending. The learned counsel also brought to the notice of this Court the fact that the plaintiffs had given up respondents 6 to 21/ defendants 6 to 21 and thereafter, managed to get an order before the Court below permitting the plaintiffs to display a caution notice in the suit property and according to the learned counsel for petitioners such a permission virtually amounts to granting an order of interim injunction preventing the parties from dealing with the suit property.

7. It is apparent from the records that the service of notice both in the interlocutory applications as well as in the suit was not completed. That apart, the main relief sought for in I.A.No.25, 26



C.R.P.No.1770 of 2019

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and 27 of 2019, was pending before the Court below and under such circumstances, the plaintiffs managed to get an order before the Court below to display a caution notice in the suit property to caution the general public from dealing with the property. Such order passed by the Court below virtually amounts to preventing the parties from dealing with the property and what the plaintiffs were not able to achieve by filing in I.A.No.25, 26 and 27 of 2019, was indirectly achieved by getting an order in I.A.No.464 of 2019. Such an attempt made by the plaintiffs ought not to have been entertained by the Court below and while issuing such a direction, the Court below perfectly understood that the order passed was literally an injunction order and that is the reason why the plaintiffs were directed to comply with order 39 Rule 3 of CPC.

8. The order passed by the Court below, on the face of it, is illegal and the same requires the interference of this Court. When



C.R.P.No.1770 of 2019

this Criminal Revision Petition was entertained on 29.05.2019, this Court suspended the interim order granted by the Court below in I.A.No.464 of 2019. Hence, the order passed by the Court below has not been given effect to till date.

9. In the light of the above discussion, this Court has absolutely no hesitation to interfere with the order passed in I.A.No.464 of 2019 dated 24.09.2019 and the same is hereby set aside.

10. The respondents 2 and 3 / plaintiffs 2 and 3 have died during the pendency of this Civil Revision Petition. Therefore, the only person who may have any interest to prosecute the suit will be the 4th respondent / 4th plaintiff. The 4th respondent has not taken any steps to prosecute this Civil Revision Petition also. The same shall be taken into consideration by the Court below and if no



C.R.P.No.1770 of 2019

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effective steps are taken by the 4th plaintiff to prosecute the suit, the suit itself can be brought to an end. In any event, the suit shall be disposed of within a period of three months from the date of receipt of the copy of this order.

11. In the result, this Civil Revision Petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

11.01.2023

Internet : Yes
Index : Yes
Speaking Order / Non Speaking Order
rka

To

The Additional District Court, Bhavani



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C.R.P.No.1770 of 2019

N. ANAND VENKATESH, J.

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C.R.P.No.1770 of 2019

11.01.2023

10/10