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C.R.P. PD Nos.1759 & 1760 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P. PD Nos.1759 & 1760 of 2023

and

C.M.P.Nos.11423, 11424, 11425 and 11427 of 2023

T.S. Vasanth Kumar

... Petitioner in CRP (PD)
Nos.1759 and
1760 of 2023

Vs.

- 1.Anitha Karuturi
- 2.Sai Ramakrishna Karuturi
- 3.K.Yashoda
- 4.Shanthi Kaja
- 5.Tumu Anil
- 6.M/s.Axis Bank Limited,

A Company registered under the Companies Act, 1956
With Office at Axis House, C-2, Wadia International Centre,
Pandurang Budhkar Marg,
Worli, Mumbai – 400 025.

Also at,
M/s.Axis Bank Limited,
Having Branch at
Mega Wholesale Banking Centre,
Level-3, Nitesh Timesquare, No.8,
M.G. Road, Bengaluru – 560 001
Represented by its Branch Manager.

... Respondents



C.R.P. PD Nos.1759 & 1760 of 2023

Common Prayer: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the orders dated 12.05.2023 passed in I.A. Nos.3 & 4 of 2023 respectively in Vacation O.S.No.14 of 2023 pending on the file of Court of the Vacation Judge at Krishnagiri.

For Petitioner in both C.R.Ps : Mr.C.Mani Shankar,
Senior Advocate

COMMON ORDER

These two revisions arise against the orders of issuance of notice in I.A.No.3 of 2023 and I.A.No.4 of 2023. The plaintiff is the revision petitioners in both C.R.Ps.

2. I.A.No.3 of 2023 in O.S. No.14 of 2023 was filed for the relief of interim injunction restraining the defendants, their men, agents and subordinates or any person claiming through them either alienating or encumbering the suit schedule mentioned property.

3. I.A.No.4 of 2023 in O.S. No.14 of 2023 was filed for the relief of interim injunction restraining the defendants from interfering with the petitioner's possession of the suit property till execution of the Sale deed.

4. The learned Vacation Judge, after a detailed order, had held that



the question of possession on the conduct of the parties is a serious issue which can be decided only after hearing the other side. The learned Judge has issued notice, against which the present CRPs have been presented.

5. I am afraid there is no order that has been passed by the learned Trial Judge. In a suit for specific performance, a party is entitled for an order of interim injunction, if the Trial Court is satisfied about the *prima facie* case, balance of convenience and irreparable damage. This is a subjective satisfaction of a Trial Judge. It is not accessible to be revised under 115 or under Article 227 of the Constitution of India.

6. Mr.Mani Shankar, learned Senior Counsel appearing on behalf of the petitioner would argue that it is a case of failure to exercise the jurisdiction vested with him. I am not in agreement with the learned Senior Counsel. The Trial Judge has passed the detailed order running into 5 pages, giving reasons why he is not inclined to grant an ex-parte interim order. The learned Trial Judge has not foreclosed the case of the petitioner but has only decided that it is not coming within the requirements of Order



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XXXIX, CPC for the purpose of granting an exparte interim order.

However, considering the fact that the plaintiff has paid a substantive amount of Rs.1.82 crores and remaining amount of Rs.7.28 crores has been kept away from the plaintiff's hand to be paid to the defendants, I am of the view that interest of justice would be served if the learned trial Judge is requested to take up these applications and dispose of the same within a stipulated period. Accordingly, I direct the learned Trial Judge to dispose of the applications viz., I.A.Nos.3 and 4 of 2023 on or before 30.06.2023 and submit a report to this Court.

7. Accordingly, these Civil Revision Petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

25.05.2023

Index: Yes/No
Neutral Citation: Yes/No
AT/vsi2

To

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The Vacation Judge
Krishnagiri.

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V.LAKSHMINARAYANAN, J.

vsi2

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C.M.P.Nos.11423, 11424, 11425 and 11427 of 2023

25.05.2023