



C.R.P.No.2486 of 2023 &
C.M.P. Nos.2486 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.2486 of 2023 &
C.M.P.No.15425 of 2023

Thayammal

... Petitioner

Vs.

Meenathal

...Respondent

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Decree and Judgment dated 27.04.2023 passed in C.M.A.No.3 of 2020 passed by the learned II Additional District and Sessions Judge, Tiruppur, confirming the order dated 20.11.2019 passed in I.A.No.418 of 2018 in O.S.No.277 of 2018 on the file of the learned Subordinate Judge, Palladam.

For Petitioner : Mr. S.Gunaseelan

ORDER

The present Civil Revision Petition is filed to set aside the Decree and Judgment dated 27.04.2023 passed in C.M.A.No.3 of 2020 passed by the learned II Additional District and Sessions Judge, Tiruppur, confirming the



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order dated 20.11.2019 passed in I.A.No.418 of 2018 in O.S.No.277 of 2018
on the file of the learned Subordinate Judge, Palladam.

2. The brief facts of the case is as follows:-

The petitioner is the defendant and the respondent is the plaintiff in O.S.No.277 of 2018. The said suit has been filed to direct the petitioner / defendant to remove the illegal constructions raised by her in the suit by way of mandatory injunction and to direct the petitioner / defendant to surrender the vacant possession of the suit property. Further, to pay damages of Rs.1,00,000/- for the demolition of the old tiled roof house in the suit property. Pending suit, the respondent / plaintiff filed I.A.No.418 of 2018 to grant an order of temporary injunction and the said petition was allowed. As against the same, the petitioner / defendant filed C.M.A.No.3 of 2020 to set aside the order in I.A.No.418 of 2018 and the said appeal was dismissed. Aggrieved against the same, the petitioner / defendant has come up with the present petition.

3. The learned counsel for the petitioner would submit that the suit against the respondent and another sister, viz., Ramathal has been filed in O.S.No.186 of 2011 before the learned District Munsif, Palladam to declare



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that the petitioner is the absolute owner of the suit property. The respondent even after knowing about the pendency of suit never filed any suit immediately and the respondent filed the above suit in O.S.No.277 of 2018 after a lapse of 7 years with malafide intention and the said suit is barred by limitation.

4. Further, the learned counsel for the petitioner submits that the petitioner is in possession and enjoyment of suit property with open knowledge of the respondent for a period of more than 30 years. Further, the injunction granted for not to alter the physical features of the suit property is non est in law and the same is confirmed by the Appellate Authority, which caused great prejudice to the petitioner, thereby pleaded to set aside the order passed by the court below.

5. Heard the learned counsel for the petitioner and perused the documents placed on record.

6. On going through the documents placed on record, it could be seen that the petitioner and respondent are sisters and that the petitioner is in possession of the suit property. It is the case of the respondent that the



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petitioner is in permissive possession and according to the petitioner, she was put in possession by her father Nachimuthu gounder even in the year 1984 and is in possession of the same. The petitioner also admits that she has constructed building therein and put up additional construction. Further, it is also brought to the notice of this Court that the building in the suit property has been already constructed. Since the respondent was very particular that the petitioner shall be restrained from putting up any further construction and the title to the suit property yet to be decided, the court below has rightly restrained the petitioner, thereby granted interim injunction and the same was confirmed by the appellate court.

7. It is pertinent to note that when the suit is pending for declaration to decide the title claimed by the respondent herein, the act of the petitioner in putting up a new house in the suit property under the guise of renovation works, is not sustainable, therefore, the court below has rightly granted injunction and the said order does not require any interference by this Court.

8. Since the suit is of the year 2018, the learned counsel for the petitioner pleaded that a direction may be issued to dispose of the same. Taking note of the submission of the learned counsel for the petitioner and



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the fact that the suit is of the year 2018, the court below is directed to dispose of the said suit as expeditiously as possible without granting unnecessary adjournment and the parties are also directed not to seek adjournments.

In view of the above, the present Civil Revision Petition is dismissed at the admission stage. Consequently, connected miscellaneous petition is closed. No costs.

24.07.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order

ssd

To

1. The II Additional District and Sessions Judge,
Tiruppur.
2. The Subordinate Judge,
Palladam.



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V.BHAVANI SUBBAROYAN, J.,

ssd

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