



C.R.P. No. 2628 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P. No. 2628 of 2023

and

C.M.P.No.16202 of 2023

R. Vasudevan

...Petitioner

.Vs.

N.S. Kaleel

...Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside order made in I.A.No.4 of 2023 in R.C.O.P.No.91 of 2014 on the file of the Learned Rent control cum-Principal District Munsif Judge at Coimbatore, dated 12.04.2023 and pass orders.

For Petitioner : Mr. C.D. Johnson



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ORDER

This petition is filed to set aside order made in I.A.No.4 of 2023 in R.C.O.P.No.91 of 2014 on the file of the Learned Rent control Principal District Munsif Judge at Coimbatore, dated 12.04.2023.

2. The facts of the case is that the suit property was under the possession of one Babu @ Thiruvengkadasamy and Mahesh @ Vidhya Sagar who are the first and second defendants in O.S.Nos.3279 of 2013 and 549 of 2014. The petitioner herein is a tenant and running a business in the name of Cake Castle in the schedule mentioned property. Whiles, the petitioner expressed his intention to purchase the subject property from the first and second defendants and they also acceded to the request of the petitioner. When this being the case, it was to the shock and surprise that the subject property was sold to the respondent herein. Hence, the petitioner filed a injunction suit in O.S.No.3279 of 2013 on the file of Principal District Munsif Court, Coimbatore and an interim application in I.A.No.3163 of 2013 was also filed by him, wherein, the Trial Court was



pleased to grant an ad interim injunction against the first and second defendants in the suit and the respondent herein and thereafter, the injunction granted against the respondent herein alone was vacated. The subject matter of this petition, is that the petitioner herein believing the words of the first and second defendants that the subject property will be sold to him has spent a sum of Rs.35,00,000/ towards the subject property by availing loan from the Bank. The Respondent has filed R.C.O.P.No.91 of 2014 and sought eviction of the petitioner from the subject property. During the pendency of the R.C.O.P petition, the petitioner herein filed I.A.No.4 of 2023 in R.C.O.P.No.91 of 2014 before the Learned Rent Control Principal District Munsif Judge, Coimbatore under Section 10 read with 151 of C.P.C praying to stay the R.C.O.P. proceedings until the suit in O.S.No.549 of 2014 and O.S.No.3279 of 2013 is disposed of and the same was dismissed vide order dated 12.04.2023. Hence, the petitioner has come forward with this petition.

3. The learned counsel for the petitioner submitted that the Respondent herein is not a land lord and he had illegally purchased the suit



property even after knowing the liability and commitment of the landlord towards the petitioner. He further submitted that when the R.C.O.P pertaining to the very same issue is pending, if any other order came to passed in the suit, it will vitiate the entire proceedings, due to which he has filed the I.A to stay the suit proceedings in R.C.O.P.No. 91 of 2014 until the disposal of the suit in O.S.No.549 of 2014 and O.S.No.3279 of 2013 and the same was dismissed vide order dated 12.04.2023. Hence, this petition.

4. On a perusal of records it is seen that the petitioner herein has filed O.S.No.3279 of 2013 seeking for permanent injunction restraining the defendants in the suit, their agent their servants and men, relatives from in any manner disturbing the peaceful possession and enjoyment of the suit property and O.S.No.549 of 2014 granting permanent injunction against the 3rd defendant/respondent herein his men, agents from alienating or encumbering the first schedule of the suit property. In the mean time, the respondent herein has filed R.C.O.P.No.91 of 2014 to deliver the possession of the petition mentioned property on the ground of willful default, own use and occupation and for demolition and reconstruction.



When all the petitions are pending, the petitioner has filed the above I.A, wherein the impugned order has been passed.

5. It would be relevant to state that the object of Section 10 of CPC, is to prevent the Court of concurrent jurisdiction from simultaneously entertaining and adjudicating upon two parallel litigations in respect of same cause of action, same subject matter and the same relief. In the present case in hand the suit has been filed by the petitioner herein for permanent injunction against the respondent herein and two others and the present R.C.O.P has been filed by the respondent herein for evicting the petitioner from the suit schedule property. As pointed out by the trial Court, the respondent herein has a title over the subject property and hence has right to invoke the Rent Control Proceedings. The sum and substance of both the proceedings are not one and the same and the petitioner cannot invoke Section 10 of C.P.C since he has not made out any requisite conditions for grant of stay of trial under Section 10 of C.P.C.



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6. Hence, there is no merit in the submissions made by the learned counsel appearing for the petitioner and the same deserves to be dismissed.

Accordingly this Civil Revision petition is dismissed and the order passed in I.A.No.4 of 2023 in R.C.O.P.No.91 of 2014 on the file of the Learned Rent control cum-Principal District Munsif Judge at Coimbatore, dated 12.04.2023 is confirmed. No order as to costs. Consequently, the connected miscellaneous petition is closed.

7. With the above directions, this Civil Revision Petition is disposed of. No order as to costs.

04.08.2023

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Index : Yes/No

Internet: Yes/No

To.

1. The Principal District Munsif Judge at Coimbatore.



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Smn

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