



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 18.10.2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

C.R.P.Nos.3856 & 3857 of 2023
and
CMP.Nos.23838 & 23839 of 2023

- | | |
|---------------------|---------------------------------------|
| 1. Mohanageetha | |
| 2. Kamalam Ramasamy | .. Petitioners in CRP.No.3856 of 2023 |
| 3. Senthil Kumar | .. Petitioner in CRP.No.3857 of 2023 |

Vs.

- | | |
|--|---|
| 1. F.Annucia | |
| Rep. by her Mother / Power Agent P.Mercy | |
| | ... Respondent in CRP.Nos.3856 & 3857 of 2023 |
| 2. Devaraj | |
| 3. Marathal | |
| 4. N.Swaminathan | |
| 5. N.Sundarajan | ... Respondents in CRP.No.3857 of 2023 |

Prayer in CRP.No.3856 of 2023 : Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the exparte order dated 26.07.2023 passed in I.A.No.3 of 2023 in O.S.No.655 of 2023 on the file of Principal District Munsif Court, Coimbatore.



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Prayer in CRP.No.3857 of 2023 : Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the exparte order dated 26.07.2023 passed in I.A.No.4 of 2023 in O.S.No.655 of 2023 on the file of Principal District Munsif Court, Coimbatore.

For Petitioners in both CRPs : Mr.C.Jagadish

COMMON ORDER

The petitioners have filed these petitions to set aside the exparte order dated 26.07.2023 passed in I.A.Nos.3 of 2023 & 4 of 2023 respectively in O.S.No.655 of 2023 on the file of Principal District Munsif Court, Coimbatore.

2. Before the trial Court the revision petitioners herein are the defendants 5,6 & 7 in O.S.No.655 of 2023, filed by the 1st respondent / plaintiff, for the relief of permanent injunction and other consequential reliefs.



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3. According to the plaintiff she is absolute owner of the property by settlement deed dated 30.05.2019, executed by her parents Francis Mariya Joseph and Mercy, thereby she is in possession of the property in the year 2012. But the defendants 5 and 6 are said to have purchased 30 cents through sale deed dated 19.10.2022 and causing interference in the property, who have no right and title over the same. The 3rd and 4th defendants are the sons of the 2nd defendant and set up the 1st defendant who claimed the property through an unregistered sale agreement of 2003, by filing a suit in O.S.No.209 of 2005 for a specific performance and obtained ex-parte decree. Based on that, E.P.No.10 of 2016 was filed and also claim 56 cents said to be in possession. On coming to know that her parents filed a suit in O.S.No.1401 of 2016 praying to declare the decree obtained by the 1st defendant in O.S.No.209 of 2005 as null and void, an not binding on the plaintiffs. While so, all the defendants are causing interference, hence he filed the suit O.S.No.655 of 2023, for injunction and also filed I.A.Nos.3 & 4 of 2023 under Order XXXIX Rule 1 & 2 of CPC praying for temporary injunction.



4. On hearing the plaintiff, the learned trial Judge granted ad-interim injunction against the 5th and 6th defendants restraining the respondents/ defendants and their family members, men and agents and servants from in any manner, disturbing and interfering with the petitioner / plaintiff 's peaceful possession and enjoyment of the suit properties.

5. In both the applications injunction order was granted by the learned trial Judge. Immediately after issuance of notice, the defendants filed their objections but the learned trial Judge was not inclined to dispose of the said I.As, thereby not complying the Order XXXIX Rule 3-A. Hence, they approached the Court by filing these revisions.

6. But in the prayer column the revision petitioner / defendants prayed to set aside the ex-parte order passed by the trial Judge in I.A.No.3 of 2023 in O.S.No.655 of 2023, stating that suppressing the real facts the plaintiff has filed a suit for permanent injunction as if she is in possession of the property through Court of law, in fact the revision petitioners alone purchased the property. As per the decree passed in O.S.No.209 of 2005,



pursuant to the execution petition filed in E.P.No.10 of 2006, the sale deed also executed in her favour and the property was also delivered. Suppressing all the facts, the plaintiff filed the application for injunction and praying to set aside the order already passed.

7. On perusal of the impugned order it reveals that before the trial Court, the plaintiff / respondent filed a suit for permanent injunction and obtained ex-parte ad-interim order and the same is in force till date.

8. But the contention of the revision petitioner is that Order XXXIX Rule 3(a) requires the Court to dispose of the petition within a period of thirty days, but it failed to comply with provision under Order XXXIX Rule 3(a).

Order XXXIX Rule 3(a) speaks as follows:

"3-A. Court to dispose of Application for injunction within thirty days. Where an injunction has been granted without giving notice to the opposite party, the Court shall make an endeavour to finally dispose of the application



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within thirty days from the date on which the injunction was granted; and where it is unable so to do, it shall record its reasons for such inability."

9. So the trial Court ought to have considered the provision of Law if ex parte temporary injunction was granted to the opposite party. The above provision mandates the Court to dispose of the application within a period of 30 days from the date of the said order. But as on date, the case in hand, the ad-interim injunction was granted in favour of the plaintiff by the learned trial Judge on 20.07.2023, but even after a lapse of one month, inspite of appearance of the defendants, the applications have not been disposed of.

10. Therefore, this Court directs the learned trial Judge to dispose of both the I.A.Nos.3 of 2023 & 4 of 2023 on merit within a period of two weeks from the date of receipt of a copy of this order. If the petitions are not disposed of within a period of two weeks, the ad-interim injunction granted in favour of the plaintiff is ordered to be suspended till the disposal of the I.A.Nos.3 of 2023 & 4 of 2023 respectively in O.S.No.655 of 2023.



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11. Civil Revision petitions are allowed accordingly. Consequently, connected Miscellaneous petitions are closed. No costs.

18.10.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To

1. The Principal District Munsif Court, Coimbatore.
2. The Section Officer,
VR-Section, High Court of Madras.



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T.V.THAMILSELVI, J.

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