



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-01-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CRP No.4011 of 2022

And

CMP No.20833 of 2022

Palanivelu

... Petitioner

vs.

1.Santhi @ Santhakumari

2.Radhakrishnan

3.Sasikala

4.Sathish

5.Dhanalakshmi

... Respondents

The Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 04.12.2019 passed in IA No.714 of 2019 in OS No.198 of 2017 on the file of the learned Additional Sub Judge at Puducherry.

For Petitioner : Ms.G.Sumitra



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For Respondents : Mr.R.Sreedhar

ORDER

The present Civil Revision is filed to set aside the order dated 04.12.2019 passed in IA No.714 of 2019 in OS No.198 of 2017 on the file of the learned Additional Sub Judge at Puducherry.

2. The revision petitioner, who is the plaintiff, instituted suit for permanent injunction in OS No.198 of 2017.

3. It is not in dispute that the Court commenced trial in the suit proceedings. The revision petitioner-plaintiff filed Interlocutory Application in IA No.714 of 2019 under Order XVI, Rules 1 and 2 r/w Section 151 of the Code of Civil Procedure to condone the delay in filing the list of witnesses, namely (1) Superintendent Engineer-1, Electricity Department, (2) Member Secretary, Pondicherry Planning Authority Jawahar Nagar, Puducherry, (3) S.John, S/o.George, (4) The Sub Registrar, Pondicherry and (6) The Finger Print Expert, Finger Print Bureau, Puducherry.



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4. The Trial Court adjudicate the grounds on which no Interlocutory Application was filed and found that the suit is for bare injunction and therefore, the evidences of the Member Secretary, Pondicherry Planning Authority and the Superintendent Engineer-1, Electricity Department became unnecessary. Similarly, the revision petitioner-plaintiff has prayed to issue summon to the Sub Registrar, Puducherry and Finger Print Expert, Finger Print Bureau, Government of Puducherry stating that the respondents have executed the Release Deed and the Sale Deed in respect of the suit documents but denied the same.

5. The Trial Court made a finding that the suit, being for permanent injunction, the only issue to be decided is whether the petitioner is in possession of the suit property at the time of filing of the suit. Therefore, the evidence of alleged witnesses as listed out became unnecessary and it will pave way for dragging on the proceedings and accordingly dismissed the Interlocutory Application.

6. The revision petitioner is the plaintiff, who instituted the suit,



is expected to prove his case with reference to the documents and evidences.

In order to establish his possession, he cannot summon the Superintending Engineer, Electricity Department and the Member Secretary, Pondicherry Planning Authority, Sub Registrar, Pondicherry and other Authorities of the Government.

7. The Court cannot permit such witnesses to be examined in a suit for injunction wherein the revision petitioner-plaintiff has to prove his possession at the time of institution of the suit.

8. This being the principles to be followed, this Court do not find any infirmity in respect of the findings made by the Trial Court, while dismissing the Interlocutory Application filed by the revision petitioner-plaintiff. The revision petitioner-plaintiff may be permitted to examine the private witnesses if he has chosen to do so.

9. Accordingly, the order dated 04.12.2019 passed by the learned Additional Sub Judge at Puducherry in IA No.714 of 2019 in OS No.198 of 2017 stands confirmed.



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10. Consequently, the present Civil Revision Petition stands

dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

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30-01-2023

Index : Yes
Internet : Yes
Neutral Citation : Yes
Speaking order
Svn

To

The Additional Sub Judge,
Puducherry.



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S.M.SUBRAMANIAM, J.

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