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C.R.P. (PD) No.4567 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM :

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

C.R.P. (PD) No.4567 of 2023
and C.M.P.No.27360 of 2023

M.Kasali Mohammed

... Petitioner/Petitioner/Plaintiff

-VS-

1.Jaybunisha Jegabber

2.Mohammed Razeen

3.Sherin Banu

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India as against the order passed in I.A.No.3 of 2023 in O.S.No.5960 of 2023 dated 07.11.2023 on the file of the learned XVII Asst City Civil Judge, Chennai.

For Petitioner : Mr.K.Selvakumar

For Respondents : Mr.I.Abrar Mohamed Abdullah

ORDER

Challenging the impugned order dated 07.11.2023 passed in I.A.No.3 of 2023 in O.S.No.5960 of 2023, the plaintiff filed the present revision.

2. Before the trial court, the suit in O.S.No.5960 of 2023 has been filed by the petitioner/plaintiff for the relief of permanent injunction. Pending the



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suit, the petitioner/plaintiff preferred I.A.No.3 of 2023 seeking restoration of electricity connection and the said application has been dealt with by the trial court along with I.A.No.2 of 2023 filed by the petitioner/plaintiff for interim injunction and dismissed both the applications. Against the dismissal of I.A.No.3 of 2023, the petitioner/plaintiff preferred the present revision.

3. The petitioner is the partner of Tamil Cinema Company from 2020 and running sound mixing theater. In the ground floor, he put up superstructure and started Tamil Cinema Company from 2020 and he kept valuable equipments required for shooting in the suit schedule premises as well as the fourth floor. The fourth floor was let out for rent to One Cosmo Entertainment, Sound Mixing theatre and thereafter, the petitioner purchased the said Sound Mixing Theatre along with the machineries. However, the second respondent along with his henchmen came and disconnected the electricity supply to the ground and fourth floor of the premises. Hence, the petitioner filed I.A.No.3 of 2023 to restore the electricity supply. The trial court after issuing notice to the respondents and after hearing the matter at length on merits, dismissed I.A.No.3 of 2023 on 07.11.2023. Aggrieved by the same, the present civil revision petition has been filed.



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4. Learned counsel for the petitioner submits that though the petitioner had pleaded that if the respondent give some reasonable time, he would sell the Sound Mixing Theater in the fourth floor and vacate the premises, the respondent has not considered the request of the petitioner and illegally disconnected the electricity supply. In view of the illegal disconnection of electricity supply, the petitioner lodged a complaint with the Vadapalani Police Station on 27.09.2023 and thereby, the petitioner was safeguarded from forcible eviction. Thereafter, only the petitioner filed the suit on 04.10.2023. He would also submit that the trial court did not take into consideration the documents filed along with the plaint to prove his possession of the suit property and the communication between the petitioner and the respondents. Therefore, the learned counsel for the petitioner submitted that the trial court ought not to have dismissed the application for restoration of power supply and prayed for setting aside the impugned order.

5. Learned counsel for the respondents would submit that the petitioner is not in possession of the property and the trial court has rightly dismissed the application.



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6. When the matter was taken up for admission on 08.12.2023, this Court has appointed Advocate Commissioner to note down the physical features of the plaint schedule property. The Advocate commissioner visited the property in question and filed his report.

7. Considering the submission made by the learned counsel for the petitioner and the materials placed on record including Advocate Commissioner's report, this court is of the considered view that the possession of the petitioner has not been established and the dispute between the petitioner and the respondents shall be resolved only after trial. This Court do not find any merit in this revision.

8. Accordingly, this civil revision petition is dismissed. No costs. However, the petitioner is granted three months time from the date of receipt of a copy of this order to vacate the premises. Consequently, connected miscellaneous petition is closed.

20.12.2023

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Index: Yes/No

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Speaking Order/Non speaking order
Neutral citation : Yes/No

To
The XVII Asst City Civil Judge, Chennai.



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T.V.THAMILSELVI, J.,

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