



C.R.P.(MD) No.1641 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

CORAM

THE HON'BLE **MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI**

C.R.P.(MD) No.1641 of 2023

and

C.M.P.(MD) No.8141 of 2023

G.Raja

... Petitioner

Vs.

M/s.Hajee Moosa
Associates Private Limited,
Represented through its Manager,
M.K.Mohammed Muhaiyutheen,
having registered office at Ground Floor,
North Wing, 12A, 2nd Street, Lake Area,
Melur Main Road, Uthangudi,
Madurai – 625 107.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.1 of 2023 in O.S.No.74 of 2023 dated 13.06.2023 on the file of the District Munsif Court, Madurai Taluk.

For Petitioner : Mr.C.Sundaravadivel

ORDER

This Civil Revision Petition is preferred against the impugned order dated 13.06.2023 passed in I.A.No.1 of 2023 in O.S.No.74 of 2023 on the file of the District Munsif Court, Madurai.



C.R.P.(MD) No.1641 of 2023

2. The petitioner is the defendant in O.S.No.74 of 2023. The said suit was filed by the respondent/plaintiff for a permanent injunction restraining the petitioner/defendant and his henchmen, agent, or servant or any person those who are claiming under him from in any manner interfering with the peaceful possession and enjoyment and put up compound wall construction over the suit schedule property. The respondent/defendant has preferred an application in I.A.No.1 of 2023 in O.S.No.74 of 2023 for an interim relief and the same was ordered on 13.06.2023.

3. The learned counsel for the petitioner/defendant would submit that the Trial Court, while passing the impugned order of interim injunction, failed to direct the respondent/plaintiff to comply with the provisions of Order 39 Rule 3 of the Code of Civil Procedure, 1908. It is submitted that the above I.A. was allowed *vide* impugned order dated 13.06.2023 without issuing any notice to the petitioner/defendant and without affording any opportunity of being heard to the petitioner/defendant and therefore, against the impugned order, the present Civil Revision Petition is preferred.

4. In view of the overall facts and circumstances of the case, this Court is of the view that instead of approaching this Court, the petitioner/defendant has



C.R.P.(MD) No.1641 of 2023

an alternate remedy before the Trial Court itself to vacate the *exparte* order of interim injunction by filing his counter or necessary application. The petitioner is at liberty to approach the Court below and file his counter affidavit or a petition to vacate the interim order.

5. If such application or counter affidavit is filed, the Trial Court is directed to dispose of the same on merits and in accordance with law, by affording sufficient opportunities to the parties to put forth their rival contentions and supporting documents in this regard, without any further delay.

6. With the above observations, this Civil Revision Petition is dismissed. No cost. Consequently, connected, Miscellaneous Petition is closed.

12.07.2023

NCC :Yes/No
Internet: Yes/No
jen

Issue order copy on 13.07.2023

To
The Judge,
District Munsif Court, Madurai.



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C.R.P.(MD) No.1641 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

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C.R.P.(MD) No.1641 of 2023
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