



C.R.P.(MD)Nos.2522 and 2545 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)Nos.2522 and 2545 of 2023

and

C.M.P.(MD)Nos.13098 and 13164 of 2023

S.K.Sukumar

: Petitioner/Defendant
(in both petitions)

Vs.

Manikannan

: Respondent/Plaintiff
(in both petitions)

Prayer in C.R.P.(MD)No.2522 of 2023 : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order, dated 11.09.2023 passed in Diary No.6642 of 2023 in I.A.No.145 of 2020 in O.S.No.272 of 2019 filed under Order XXXIX Rule 2 A of CPC, 1908 on the file of the Principal District Court, Dindigul and consequently, direct the Registry of the District Court, Dindigul to number the same.

Prayer C.R.P.(MD)No. 2545 of 2023 : This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order, dated 11.09.2023 passed in Diary No.6642 of 2023 in I.A.No.145 of 2020 in O.S.No.272 of 2019 filed under Order XXVI Rule 9 of CPC 1908



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on the file of the Principal District Court, Dindigul and consequently,
direct the Registry of the District Court, Dindigul to number the same.

(in both petitions)

For Petitioner : Mr.B.Aravind Srevatsa

For Respondent : Mrs.S.Vijaya Shanthi

ORDER

These Civil Revision Petitions are directed against the order of returning the petitions filed under Order XXXIX Rule 2 A of CPC., and an application for appointment of Advocate Commissioner filed under Order XXVI Rule 9 of C.P.C.

2. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent.

3. Admittedly, the respondent/plaintiff has filed the suit in O.S. No.272 of 2019 for specific performance on agreement, dated 11.10.2019 and the same is pending on the file of the Principal District Court, Dindigul. Pending suit, the respondent/plaintiff has filed an application for temporary injunction restraining interference with his possession and the



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petitioner/defendant has filed an application for temporary injunction not to alter the physical features in respect of the suit property and the learned Principal District Judge, Dindigul, has passed orders in both the applications to maintain Status Quo.

4.The respondent/plaintiff has filed a revision in C.R.P(MD) No.1247 of 2022, seeking speedy disposal of the suit and the learned Judge of this Court, vide order dated 07.07.2022, directed the trial Court to dispose of the suit within a period of four months from the date of receipt of copy of that order.

5. Admittedly, the trial has already been commenced and stands posted for P.W.2 cross examination. Meanwhile, the petitioner has filed two applications alleging that subsequent to the granting of temporary injunction not to alter the physical features, the respondent/plaintiff has made alteration/construction in contravention to the order granted by this Court, one to punish the respondent for contempt and the other for appointment of Commissioner to prove the alleged constructions/alteration.



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6. The learned Principal District Judge has returned the petitions vide order dated 18.08.2023 that “ Madurai Bench of Madras High Court in C.R.P(MD)No.1247 of 2022, directed to dispose of the case within 31.08.2023 and the case is posted for cross of P.W.2 and that this Petition is not necessary at this stage.”

7. It is seen from the records that the petitioner has represented the petitions, but the same were again returned with the endorsement that “since the case is ripe for trial and posted for cross of P.W.2, this petition is not necessary at this stage. As rightly contended by the learned counsel for the petitioner, the trial of the suit has nothing to do with numbering the petition filed under Order XXXIX Rule 2 A of C.P.C., and proceed with enquiry.

8. The learned counsel for the respondent would submit that the petitioner with sole intention to protract on the proceedings, has filed the above applications, when the case was posted for P.W.2 cross examination.



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9. Considering the entire facts and circumstances of the case and also the submissions made by the learned counsels on either side, the learned Principal District Judge, Dindigul, is hereby directed to number the petitions, if they are otherwise in order and to proceed with the applications independently and further directed to proceed with the trial of the suit and to complete the same within a period of two months from the date of receipt of copy of this order. The petitioner as well as the respondent are hereby directed to co-operate with the trial Court for early disposal of the case as stipulated by this Court.

10. With the above observation and directions, these Civil Revision Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

04.10.2023

Note : The Registry is directed to return the unnumbered petitions filed along with these revision petitions to the learned counsel for the petitioner, after getting appropriate acknowledgement.

NCC :yes/No

Index :yes/No

Internet:yes/No

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K.MURALI SHANKAR,J.

das

To

- 1.The Principal District Judge, Dindigul.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.R.P.(MD)Nos.2522 and 2545 of 2023
and
C.M.P.(MD)Nos.13098 and 13164 of 2023

Dated : 04.10.2023