



C.R.P.(MD).No.2312 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).No.2312 of 2022

and

CMP(MD).Nos.11159 & 11161 of 2022

Abdul Majeeth

... Petitioner

-VS-

Bagusiya

... Respondent

PRAYER: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 20.07.2022 in I.A.No.2 of 2022 in O.S.No.12 of 2022 on the file of the District Munsif Cum Judicial Magistrate, Thiruppathur.

For Petitioner : Mr.AL.Kannan

For Respondent : Mr.S.A.Ajmalkhan

ORDER

The present revision petition has been filed by the plaintiff in a suit for declaration of title and permanent injunction.



C.R.P.(MD).No.2312 of 2022

WEB COPY

2. Pending suit, the plaintiff had filed I.A.No.2 of 2022 for the relief of interim injunction. Though initially an order of interim injunction was granted by the trial Court, after hearing both the parties, the same was dismissed on 20.07.2022. Challenging the said order, the present civil revision petition has been filed.

3. According to the learned counsel for the petitioner, the trial Judge instead of considering the interim injunction application has proceeded to decide the suit itself on merits and has made various adverse observations as against the merits of the suit filed by the plaintiff.

4. In view of Order 43 Rule 1(r) C.P.C, an order passed under Order 39 Rule 1 and 2 C.P.C is an appealable order. Therefore, this revision petition is not maintainable. Time spent by the revision petitioner between 09.11.2022 to 21.02.2023 shall be excluded for calculation of limitation period, in case if the petitioner chooses to file an appeal before the Subordinate Court.



C.R.P.(MD).No.2312 of 2022

5.The trial Judge is directed to dispose of the suit on merits and in accordance with law without being influenced or being carried away by any one of the observations made in the interim injunction application.

6.With the above observations, this civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.02.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
msa

To

1.The District Munsif Cum Judicial Magistrate
Thiruppathur

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD).No.2312 of 2022

R.VIJAYAKUMAR, J

msa

C.R.P.(MD).No.2312 of 2022
and
CMP(MD).Nos.11159 & 11161 of 2022

21.02.2023