



C.R.P.(MD).No.578 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 10.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(PD)(MD)No.578 of 2017

and

C.M.P(MD) No.2596 of 2017

1. M.Ganesan
2. M.Ramakrishnan

... Revision Petitioners/
Petitioners/Plaintiffs

-VS-

1. K.Ponnammal
2. K.Velliraja
3. K.Thavamurugan
4. K.Velmurugan

... Respondents/Respondents/
Defendants

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and executable order dated 26.10.2016 passed in I.A.No.543 of 2016 in O.S.No.54 of 2014, on the file of the District Munsif Court, Mudhukulathur.

For Petitioners : Mr.T.R.Jeyapalam

For Respondents : Mr.R.Karthikeyan – for R4
: No appearance – for R1 to R3



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ORDER

The instant Civil Revision Petition has been filed by the petitioners under Article 227 of the Constitution of India, to set aside the fair and executable order dated 26.10.2016 passed in I.A.No.543 of 2016 in O.S.No. 54 of 2014, on the file of the District Munsif Court, Mudhukulathur.

2. The revision petitioners are the plaintiffs before the trial Court.

3. It appears that the petitioners filed a suit for permanent injunction in O.S.No.54 of 2014, in which, in I.A.No.239 of 2014 they sought for temporary injunction restraining the respondents not to interfere the peaceful possession. In which, the trial Court, vide order, dated 23.03.2015 has granted temporary injunction. However, according to the petitioners, the respondents/ defendants have put up construction thereafter, in spite of the order, dated 23.03.2015. Hence, they moved a contempt application on 28.06.2016. While disposing of the said application, the learned trial Judge had arrived at a conclusion that the petitioners themselves were very lethargic in protecting



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their property and that having permitted the defendants herein to complete the construction, it is not fair on their part to seek for the relief against the defendants for contempt of Court.

4. Aggrieved by the order of the learned trial Judge, the revision petitioners approached this Court contending that the trial Court has failed to exercise the jurisdiction conferred on it and has also failed to note that the petitioners have filed the suit in O.S.No.54 of 2014 with a prayer for declaration and consequential injunction.

5. It is also the submission of the learned counsel for the revision petitioners that the very dismissal of the contempt application, in spite of the fact that there was no appeal against the fair and decreetal order in I.A.No. 239 of 2014, is irrationale. Hence, he prayed to allow the Civil Revision Petition.

6. However, the learned counsel appearing for the 4th respondent would stoutly contend that there is no disobedience or breach of the order of the trial



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Court. Therefore, he would further submit that the very contempt application is liable to be dismissed.

7. This Court has given anxious consideration to the submissions of the learned counsel for the petitioners and the learned counsel for the fourth respondent.

8. From the perusal of the affidavit filed by the petitioners, it is seen that though there was an injunction on 23.03.2015 in their favour, the very conduct of not objecting the alleged construction within the suit property for more than one year from 23.03.2015 to 28.06.2016 would only probabilise that there was no disobedience in the intervening period. The natural propensity would be whenever there is any disobedience of the Court order, then application would be filed immediately. Here, the petitioner has come to Court after a period of one year.

9. In such circumstances, the finding of the trial Judge that the very conduct of the petitioner would probablise the absence of very disobedience



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by the respondents, cannot be found fault with. Therefore, this Court is of the view that there is no ground to interfere with the order of the trial Judge. Hence, this Civil Revision Petition is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

10.07.2023
(1/2)

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif Court,
Mudhukulathur.

2. The District Munsif Court,
Kadaladi.



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C.KUMARAPPAN,J.

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