



C.R.P.(MD)No.3385 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 22.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.3385 of 2023
and
C.M.P.(MD)No.17493 of 2023

K.Mohamed Ansar

: Petitioner/Petitioner/
Plaintiff

Vs.

- 1.The State of Tamil Nadu,
Rep. through the District Collector,
O/o.The District Collector,
Dindigul District.
- 2.The Tahsildar,
O/o.The Tahsildar,
Palani, Dindigul District.
- 3.The Commissioner,
Palani Municipality,
Palani, Dindigul District.
- 4.The President,
Palani Co-operative House Building Society Ltd.,
A1888, Shanmugapuram, Palani,
Dindigul District.



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5.The District Registrar,
The Co-operative Societies,
Dindigul, Dindigul District.

: Respondents/Respondents/
Defendants

Prayer : This Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the learned Additional District Judge, Palani to dispose of the petition in I.A.No.325 of 2023 in O.S.No.364 of 2022 within a time frame as fixed by this Court.

For Petitioner : Mr.V.George Raja,
for M/s.Ajmal Associates.

For Respondents : Mr.A.Baskaran,
Additional Government Pleader
for R1, R2 and R5.

ORDER

The Civil Revision Petition has been filed seeking a direction to dispose of the petition in I.A.No.325 of 2023 in O.S.No.364 of 2022 on the file of the Additional District Court, Palani within a time frame as fixed by this Court.

2. The petitioner as plaintiff has filed the above suit to declare that the 'B' schedule property is belonging to him and for permanent injunction restraining the defendants and their men from interfering with the peaceful



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possession and enjoyment of the suit property and directing the defendants

1 to 3 to issue patta in respect of the 'B' schedule property in favour of the plaintiff and for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the 'A' schedule property.

3. The learned counsel for the petitioner would submit that the trial Court, after taking the suit on file, has issued summons to the defendants; that the defendants 1 to 4 have entered into appearance through their counsel and sought time for filing written statement; that since the summons were not served on the fifth defendant, fresh summon was ordered; that the third defendant, after receipt of suit summon, has issued a notice, dated 17.12.2023, directing the plaintiff to remove the encroachments allegedly made in the suit property and that therefore, the the plaintiff has filed a Writ Petition in W.P(MD)No.16716 of 2023 and the Division Bench of this Court, directing the plaintiff to approach the Civil Court since the suit is pending, dismissed the writ petition and that subsequently, the plaintiff has filed an application for temporary injunction under Order 39 Rule 1 and 2 of C.P.C, before the concerned Court. Since the defendants 1 to 4 have already entered into appearance before the trial



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Court, the trial Court has ordered issuance of notice again the respondents 1 to 5 and posted the matter to 13.12.2022 and when the matter was taken up on 13.12.2022, directed the petitioner to pay batta and ordered notice to the respondents 1 to 4 again.

4. It is evident from the records that the learned Government Pleader has entered into appearance for the defendants 1 and 2 and the learned standing counsel have taken notice for the defendants 3 and 4, this Court is at loss to understand as to why fresh notice was ordered again to the respondents in the injunction petition.

5. Considering the above, the petitioner/plaintiff is directed to serve notice on the counsel already on record for the respondents 1 to 4 with regard to the injunction petition and the trial Court is directed to proceed with enquiry, after filing of the counter statement and to dispose of the injunction petition within one month from the date of receipt of copy of this order. Considering the fact that the third respondent has issued the notice subsequent to the receipt of the suit summons, the third respondent is directed not to proceed till the disposal of the injunction petition.



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WEB COPY 6. With the above directions, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

22.12.2023

NCC :yes/No
Index :yes/No
Internet:yes/No
das

To

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



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K.MURALI SHANKAR,J.

das

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Dated : 22.12.2023