



C.R.P.No.441 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.441 of 2021 and
C.M.P.No.3833 of 2021

K.C.Veeramani

... Petitioner

Vs.

1. S.Samikannu
2. Adisivan
3. Palanimuthu

...Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to strike off E.P.No.63 of 2020 in O.S.No.117 of 2015 on the file of the Additional District Munsif, Tirupattur.

For Petitioner : Mr.R.Rajasekaran

For respondent 1 : M/s.P.T.Saravanan

For respondent 2 : No appearance

For respondent 3 : No such address

ORDER

The Civil Revision Petition is filed seeking to strike off the execution petition filed by the 1st respondent.



2. The 1st respondent herein filed a suit for injunction against the 2nd respondent in O.S.No.117 of 2015 and obtained an injunction decree. As per the clause(1) of decree, the 2nd respondent/defendant in the suit was restrained from interfering with 1st respondent's peaceful possession and enjoyment of the suit property either by himself or through his men. The English translation of clause(1) of the decree reads as follows:

"The defendant or his men are restrained from interfering with plaintiff's peaceful possession and enjoyment of suit property".

3. Now, execution petition is filed by the 1st respondent against 2nd and 3rd respondents and petitioner on the ground that the petitioner and 3rd respondent were actively aiding 2nd respondent in interfering possession of 1st respondent. The Full Bench of this Court in ***Vidya Charan Shukla Vs Tamil Nadu Olympic Association and Others*** reported in ***MANU/TN/0059/1991=AIR 1991 Mad 323*** considered the question whether a third party to the suit, who aids or abets the defendant in violating injunction order/decreed is liable for his acts. The relevant observation of Full Bench reads as follows:-



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"31. We have already noticed that a Court's power to grant injunction is not confined to Order 39, Rules 1 and 2 of the Code of Civil Procedure. In Appropriate cases, the Court can grant injunction exercising its inherent power. Yet, a departure from the rule that any order or direction in the nature of injunction should be directed to the parties to the suit or litigation before it cannot easily be allowed. That is why the first thing to know in such a case is who the contemner is, a party to the proceeding or a stranger. In addition to holding those who have been expressly enjoined by an injunction to have committed a contempt if they disobey the Order, a person who is not a party to the action, who knowing of an injunction, order or direction, aids and abets the defendant in breaking it is also a contemner is a rule which has since received wide recognition by almost every court".

4. The Full Bench after referring to plethora of English and Indian case laws in this aspect, finally concludes as follows:



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"46. We can see thus clearly that the Courts in India invariably accepted the law applied in England and found (1) a party to the suit if he had notice or knowledge of the order of the Court and (2) a third party or a stranger, if he had aided or abetted the violation with notice or knowledge of the order of injunction guilty of civil contempt and otherwise found a (third party guilty of criminal contempt if he has been found knowingly obstructing implementation of its order of direction, if it is found in the instant suit that Sri Shukla was directly or indirectly a party defendant in the suit and the order of the learned single Judge was directed to his conduct also and he violated the order after notice or knowledge, he shall be guilty of civil contempt. He can still be found guilty of civil contempt if he is found to have aided and abetted the violation of the order of the Court".

5. The execution petition is filed mainly on the allegation that petitioner and 3rd respondent are actively aiding 2nd respondent in violating the decree for injunction obtained by the 1st respondent. Whether the petitioner will come under the expression "or his men" found in clause(1) of the decree and



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whether the petitioner and 3rd respondent are actively aiding 2nd respondent in interfering with possession of the 1st respondent or not are matters for evidence and the same cannot be conveniently decided by this Court in revision under Article 227 of Constitution of India. Therefore, this Court is not inclined to entertain the civil revision petition and hence, the same is dismissed with liberty to the petitioner to raise all his objections in the execution petition pending before the Executing Court. The execution petition shall be decided by Executing Court on its own merits without being influenced by anything said in this order. No costs, consequently connected miscellaneous petition is closed.

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Index : Yes
Internet : Yes
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To

The learned Additional District Munsif, Tirupattur.



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S.SOUNTHAR, J.

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