



C.R.P.(PD).Nos.2343 and 2344 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P. (PD)Nos.2343 and 2344 of 2024

and

C.M.P. Nos.12304, 12308 and 16729 of 2024

- 1.Sree Ayyappa Bakthargal Saba Thiruniravur,
Rep. By its President Mr.Murugesu Pandiyan.R,
Thiruniravur, No.1/47, New Road,
Thiruniravur Road, Avadi Taluk,
Thiruvallur-602 024.

- 2.Sree Iyappa Alaya Seva Trust,
Rep. By President Mr.Baskaran,
No.2, Vatchalapuram,
2nd Street, Thiruniravur Post,
Avadi Taluk, Thiruvallur District.
Temple situated in the Sree Ayyappan Alayam,
No.2, Vatchalapuram, 2nd Street,
Thiruniravur Post, Avadi Taluk,
Thiruvallur District. ..Petitioners/ Plaintiffs in both petitions

Vs.



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1. Mr. Suresh

2. Mr. Sai Kumar

3. Mr. Kalaiarasan

4. Mr. Gnanasekaran.D

5. Mr. Vikneswaran

6. Mr. Selvam

7. Mr. Lakshmikanth

8. Mr. Kailasam .. Respondents/ Defendants in both petitions

PRAYER in C.R.P.(PD).No.2343 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 12.04.2024 in I.A.No.2 of 2024 in O.S.No.46 of 2024 on the file of Additional District Munsif Court at Poonamallee.

PRAYER in C.R.P.(PD).No.2344 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order dated 12.04.2024 in I.A.No.3 of 2024 in O.S.No.46 of 2024 on the file of Additional District Munsif Court at Poonamallee.

For Petitioners : Mr.K.Chandru
in both petitions

For Respondents : Mr.A.R.Suresh
in both petitions for R1 to R5 and R7 and R8

For R6 : Not ready in notice



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in both petitions

COMMON ORDER

These two Civil Revision Petitions arise against the orders passed in I.A.Nos.2 and 3 of 2024 in O.S.No.46 of 2024. O.S.No.46 of 2024 is a suit for bare injunction presented by the Civil Revision Petitioners as against the eight named defendants. It is the case of the plaintiffs that the Suit Schedule mentioned property belongs to Sree Ayyappa Bakthargal Saba and Sree Iyappa Alaya Seva Trust. They would state that they are the office bearers and the defendants are attempting to take over the administration of the Trust and the Trust properties. The plaintiffs would submit that the defendants are strangers to the property and therefore they came forth with the suit for injunction.

2. Pending the suit, Application in I.A.No.2 of 2024 was filed seeking for injunction not to disturb the administration of the Temple and trust and another in I.A.No.3 of 2024, restraining the defendants from interfering with the temple vazhipadu and from conducting any meeting in the temple premises. The suit was moved on 15.02.2024. Interim injunction was granted by the learned Judge on the same day and notice



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was issued to the defendants. Thereafter, on being served with the notice on 12.04.2024, the defendants filed a memo stating that a caveat had been filed in the matter and since there was suppression of the caveat, the interim order has to be vacated. Accepting the plea that has been raised by the defendants, the interim order was not extended on 12.04.2024. Thereafter, the matter was adjourned for filing of counter. The pleadings have been completed and the matter is ready for enquiry.

3. Feeling aggrieved over the non-extension of the interim order, the present Civil Revision Petitions have been presented.

4. Heard Mr.Meiyappan, learned counsel for the Civil Revision Petitioners and Mr.A.R.Suresh, learned counsel for the Respondents.

5. At the outset, Mr.A.R.Suresh, would submit that the Civil Revision Petitions are not maintainable as the appropriate remedy for plaintiffs/Civil Revision Petitioners is only to prefer an appeal invoking Order 43 Rule 1(r) of CPC. He would state that an appeal lies from the order vacating the interim injunction. Being a preliminary objection, this



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issue has to be addressed first.

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6. Mr.A.R.Suresh, would have been correct if an order had been passed by the learned Trial Judge in terms of Section 2(14) of CPC. Under Section 2(14) of CPC, an order has been defined as a formal expression of any decision by a Court which is not a decree. In the present case, there is no formal expression. The only order that has been passed by the learned Trial Judge is refusal to continue with the injunction granted, as there was a caveat pending on the date the Suit had been filed and that the same had been suppressed. Such a non-extension cannot be treated as an order within Section 2(14) or under Order 39 Rule (4) because there is no “formal expression” by the learned Judge. Unless and until there is a formal expression, fair and decreetal order would not be prepared by the Court. Code of Civil Procedure does not contemplate appeals as against the same proceeding in the same order. If I were to agree with Mr.A.R.Suresh then as against the order dated 12.04.2024 an appeal would lie and another as against the very same proceedings subsequently after the disposal of the application. Such an interpretation would cause havoc and would only cause multiplicity of



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proceedings. Therefore, I am not willing to accept the submission of Mr.Suresh.

7. Turning to the merits of the revision petition, a perusal of the Caveat petition said to have been filed in Caveat Petition No.31 of 2024 on 13.02.2024 would show that it had been filed by one Mr.Nanda Kumar who is a 3rd Party to the Suit. The said Nanda Kumar is neither the plaintiff nor the defendant in the Suit. By the mere fact that a caveat had been filed by a third party, injunction granted cannot be vacated at the instance of the duly named defendants. This is because, if not for Section 148A of CPC right to file a caveat does not exist. This right is an individual right and is not one in rem. Perhaps, the plaintiffs felt Mr.Nanda kumar was not interfering with their possession and therefore he was not considered as a party. Be that as it may, the benefit of filing the Caveat Petition No.31 of 2024 would lie only in favour of one Nanda Kumar and not in favour of the defendants in O.S.No.46 of 2024.

8. It is on this short ground that I am interfering with the order of the Additional District Munsif Judge, Poonamalle in I.A.Nos.2 and 3 of



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2024 dated 12.04.2024. The finding of the learned Judge that there has been suppression of fact by the plaintiffs is erroneous and therefore, it is interfered with and set aside.

9. This does not put an end to the litigation because the subject matter involved in the proceedings is a place of religious worship. Therefore, the learned Additional District Munsif Judge, Poonamalle, is requested to dispose of I.A.Nos.2 and 3 of 2024 uninfluenced by the observations made by me. She is entitled to go into the merits of the matter other than reopening the issue on Caveat.

10. Mr.A.R.Suresh, would submit that they have submitted their counter and proof affidavit. Since pleadings have been completed, the Additional District Munsif Judge, Poonamalle, is requested to dispose of the applications on or before 30.09.2024. Both sides agree that they will inform the learned Additional District Munsif Judge, Poonamalle, about this order and would be ready for the disposal of these applications. The learned Additional District Munsif is directed to act on the web copy of the order and not wait for the certified copy of the order so as to ensure



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expeditious disposal of the applications.

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11. The Civil Revision petitions are disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

19.08.2024

Speaking (or) Non Speaking Order

Index: Yes/No

Neutral Citation: Yes/No

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To:

The Additional District Munsif Judge,
Poonamallee.



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V.LAKSHMINARAYANAN, J.

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