



C.R.P.(PD).No.3171 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD).No.3171 of 2024
and C.M.P.No.16951 of 2024

T.Manoharan

.. Petitioner

Versus

1. K.Moorthy

2. Manjula

.. Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order, dated 01.09.2023 passed in I.A.No.3 of 2019 in O.S.No.21 of 2019 on the file of the District Munsif Court, Perundurai, Erode district.

For Petitioner : Mr.C.Prakasam

ORDER

This Civil Revision Petition arises against the order of the learned District Munsif, Perundurai in I.A.No.3 of 2019 in O.S.No.21 of 2019, dated 01.09.2023.



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2. O.S.No.21 of 2019 is a suit for bare injunction. The respondents/plaintiffs claimed that they purchased the property on 09.03.2018 and have been in possession and enjoyment of the same. The respondents/plaintiffs would plead that the petitioner/defendant had been given pinpricks to them and to the business and on 03.01.2019, the petitioner/defendant was emboldened to encroach upon the property. The respondents/plaintiffs would plead that they had objected to the same and since the matter is one of civil in nature, they filed the suit for permanent injunction restraining the petitioner/defendant not to interfere with their peaceful possession and enjoyment of the property.

3. On being served with the summons, the petitioner/defendant took out an application stating that the suit is barred by virtue of Sections 22 and 46 of the Air (Prevention and Control of Pollution) Act, 1981. They would plead that since the respondents/plaintiffs are running a flex printing business without license, the petitioner/defendant is put to irreparable hardship. On this ground, he sought for rejection of plaint.



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4. The respondents/plaintiffs filed a detailed counter stating that they are seeking for injunction only on account of the fact that the petitioner/defendant is seeking to interfere with their possession and the said suit has nothing to do with the license or the authorities under the Air (Prevention and Control of Pollution) Act, 1981. After a detailed analysis of the affidavit and the counter, the learned District Munsif came to a conclusion that the petition for rejection of plaint does not have any merits and dismissed it. Against which, the present Revision is filed.

5. Heard Mr.C.Prakasam, learned Counsel for the civil revision petitioner/defendant.

6. Mr.C.Prakasam would submit that on account of the flex printing business that is being run by the respondents/plaintiffs, there are huge emissions causing health hazards and breathing trouble, and the entire area is filled with bad odour. He would plead that the Civil Court has no jurisdiction to entertain a suit dealing with a business as the petitioner/defendant is not rendering the same in accordance with law. He would further draw my attention to the Sections 22 and 46 of the Air



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(Prevention and Control of Pollution) Act, 1981 and would plead that the revision be admitted and an interim order be granted.

7. I have carefully analysed the submissions of Mr.C.Prakasam and have gone through the records.

8. For the purpose of rejection of plaint, the averment in the suit alone matters. The statements in the plaint have to be taken to be true and thereafter, it has to be decided whether the suit has a cause of action or whether it is barred by law. The suit in O.S.No.21 of 2019 is a simple suit for injunction predicated on the allegation that the petitioner/defendant is seeking to encroach upon the property of the respondents/plaintiffs. In such a suit, the issue of going into whether the business that is being run by the respondents/plaintiffs has a license or not, is totally alien. The respondents/plaintiffs are relying upon their sale deed, dated 09.03.2018 and are claiming possession on the basis of the said sale deed. If, as stated by Mr.C.Prakasam, their business is causing air or noise pollution, the remedy of the petitioner/defendant is not for rejection of plaint, but, lies elsewhere.



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9. Furthermore, the authorities constituted under the Air (Prevention and Control of Pollution) Act, 1981 cannot grant the order that can be granted by a Civil Court. The bar under Sections 22 and 46 operates only if there is a challenge to any action that has been initiated by the Pollution Control Board and a party approaches the Civil Court seeking for injunction against such action. That is not the situation in the present case. This is a suit for permanent injunction simplicitor based on lawful possession. Therefore, I have no reasons to differ from the view taken by the learned District Munsif, Perundurai in O.S.No.21 of 2019.

10. This Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

08.08.2024

Index : yes/no
Speaking order/Non-speaking order
Neutral Citation : yes/no
grs

To

The District Munsif Court,



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Perundurai, Erode district.

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V.LAKSHMINARAYANAN, J.

grs

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