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C.R.P.(PD).No.3528 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

Coram

THE HON'BLE MR. JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD).No.3528 of 2024
and C.M.P.No.19101 of 2024

1.B.Rani
2.C.Balakrishnan

... Petitioners

-Versus-

Ansar

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decretal order dated 10.10.2023 passed in C.M.A.No.10 of 2022 by confirming the order and decretal order dated 05.07.2022 passed in I.A.No.3 of 2022 in O.S.No.120 of 2022 on the file of the learned Additional Sub Judge, Chengalpattu.

For the Petitioners : Mr.S.Ruban Prabu

ORDER

This Civil Revision Petition arises against the order passed by the learned Principal District Judge, Chengalpet in C.M.A.No.10 of 2022 dated 10.10.2023 in confirming the order and decretal order of the learned Additional Sub Judge, Chengalpattu, in I.A.No.3 of 2022 in O.S.No.120 of 2022 dated 05.07.2022.



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2. O.S.No.120 of 2022 is a suit for permanent injunction restraining the defendants / Civil Revision Petitioners from interfering with the peaceful possession and enjoyment of the suit property of the plaintiff.

3. The plaintiff would contend that he has entered possession of the property pursuant to a lease agreement dated 25.10.2020 entered into between himself and one Babu. The said Babu is none else than the son of the Civil Revision Petitioners. The agreed rent was Rs.50,000/- per month and a security deposit of Rs.1,50,000/- had been handed over by the plaintiff to the said Babu. On the strength of the lease agreement, the plaintiff applied for FSSAI licence and also obtained the same.

4. He would plead that the service connection for the property is in the name of Babu, which he has been availing. He would plead that on 19.05.2022, the Civil Revision Petitioners threatened him with dispossession, constraining him to approach the Inspector of Police, Chengalpet and lodge a complaint. A CSR was issued and the police refused to act further into the complaint on account of the fact that the matter is civil in nature. Hence, he presented the suit



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for the aforesaid relief.

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5. Along with the said suit, he moved an application for interim injunction, restraining the Civil Revision Petitioners from interfering with his peaceful possession and enjoyment of the suit property. After granting an interim order, notice was ordered to the respondents therein.

6. On service of summons, the respondents filed their counter to the interlocutory application as well as their written statement.

7. They would plead that Babu is not the owner of the property and the ownership for the property, under the occupation of the plaintiff, is with the 1st defendant-Rani. She would plead that she had permitted her son - Babu to enter into a lease agreement and put the plaintiff in possession of the property. She would state that the allegations made in the plaint as well as in the counter affidavit are all false. In fact, the plea would stretch to an extent stating that the suit itself had been filed at the instance of Babu, on account of the fact that Babu's wife viz., her daughter-in-law had developed inimical attitude towards the defendants.



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8. Before the learned Trial Judge, the plaintiff filed Exs.P1 to P.19, in order to prove that he is in possession of the property. The defendants exhibited Exs.R1 to R5. On a consideration of Exs.P1 and P2 – the tenancy agreement executed by Babu in favour of Ansar, the Court came to a conclusion that the plaintiff is in possession of the property. In addition the Trial Court also found that having accepted the fact that Babu had executed a lease agreement with the plaintiff, it is not open to the defendants to plead against the said documents. On that ground, the learned Trial Judge had granted an order of injunction, restraining the defendants from peaceful possession of the plaintiff.

9. Aggrieved by the same, a civil miscellaneous appeal was preferred in C.M.A.No.10 of 2022 before the Principal District Judge, Chengalpet. The learned Judge confirmed the findings of the Trial Court. Hence, the present revision.

10. The learned counsel for the petitioners would submit that the Trial Court as well as the Lower Appellate Court have entered a finding with regard to the ownership of the property and therefore, he would submit that it is



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perverse. Apart from that he would point that there cannot be an injunction against a true owner and the question of estoppel does not arise.

11. I have carefully considered the submissions of Mr.S.Ruban Prabhu.

12. In so far as the findings of the learned Trial Judge as well as the learned Appellate Judge, it is only for the purpose of disposal of the temporary injunction application. It is only to find that if *prima facie* case has been made out by the respondent herein. Obviously the findings given in a suit for injunction, not to interfere with the possession initiated by a tenant with respect to ownership of the suit property, would not bind either the defendants or Mr.Babu himself. That would have to be worked in a separate suit, either by the defendants herein or by Mr.Babu, for title over the suit property.

13. Suffice it to state that it is a simple suit, where the tenant who is in occupation of the property, pleads that he must not be dispossessed from the same at the hands of the defendants. Exs.P1 and P3, viz., the lease deed entered into by Babu – son of the defendants with Mr.Ansar is not in dispute. If a person has entered into peaceful and lawful possession of the property, certainly



he will be entitled for an order of injunction not to be dispossessed, except otherwise in accordance with law. As laid down by the Privy Council in ***The Midnapore Zamindary Co., Ltd. Vs. Naresh Narayan Roy and Ors., (1924) XX Law Weekly 770, 775***, the law protects a person in lawful possession and even an owner can take possession of the property only by resorting due process of law. Therefore, the plea of Mr.S.Ruban Prabhu that there cannot be an injunction against a true owner cannot be applicable to the facts of the case. The plaintiff, being in lawful possession, pursuant to the lease agreement is entitled to continue in possession as long as he is not dispossessed by an order of the Court.

14. The solution for the defendants is to initiate appropriate proceedings to take possession of the property legally. The order of the learned Trial Judge as confirmed by the Lower Appellate Court will not stand in the way of the defendants to take possession of the property in a manner known to law.

15. As regards the plea of estoppel, since the defendants have not denied the Exs.P1 and P2, the lease agreement, that had been entered between Babu and Ansar. This is clear from the averments in paragraph no.7 of the written



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statement. The said finding is only a *prima facie* one. I am certain that it would not bind the parties when the suit is taken up for disposal. Suffice it to say that as the plaintiff/respondent has proved that he is in lawful possession of the property, the order of injunction need not be dissolved in this revision.

16. In the result, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

03.09.2024

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Index : yes / no
Internet : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order

To

- 1.The Principal District Judge, Chengalpattu.
- 2.The Additional Sub Judge, Chengalpattu.

V.LAKSHMINARAYANAN, J.

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