



C.R.P.(MD)No.51 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No. 51 of 2023

and

CMP (MD) No. 258 of 2023

1.Alagi
2.S.N.Rajenran
3.N.Lakshmi : Petitioners/
Respondents 1 to 3/
Defendants 1 to 3

Vs.

1.S.Raman : 1st Respondent/
Petitioner/Plaintiff
2.Alagi, D/o.Late Nalliyappan
3.C.Mani : Respondents 2 and 3/
Respondents 4 and 5/
Defendants 4 and 5

PRAYER:-Civil Revision Petition has been filed under section 115 of the Civil Procedure Code, to call for the records relating to the Fair and decreetal order passed in EA No.20 of 2013 in OS No.118 of 2006, dated 12/12/2022 on the file of the District Munsif-cum-Judicial Magistrate, Natham, Dindigul District and set aside the same.

For Petitioners : Mr.S.Sarvagan Prabhu

For 1st Respondent : Mr.P.Santhana Krishnan

For R2 and R3 : No appearance



C.R.P.(MD)No.51 of 2023

O R D E R

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This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 12/12/2022 passed in EA No.20 of 2013 in OS No.118 of 2006 by the District Munsif-cum-Judicial Magistrate, Natham, Dindigul District.

2.The facts in brief:-

A suit in OS No.116 of 2006 was filed by the 1st respondent herein seeking the relief of declaration, consequential injunction and for costs. The trial court after full trial, decreed the suit as prayed for with costs, on 30/06/2009. Against the judgment and decree of the trial court, the defendants preferred AS No.108 of 2010 before the Additional District and Sessions Judge, Dindigul. That came to be dismissed, by judgment and decree, dated 29/02/2012. Thereafter, there is no further appeal namely the second appeal filed by the petitioners.

3.Later, alleging that the petitioners are trying to disturb his possession by way of violating the judgment, EA No.13 of 2013 was filed by the 1st respondent herein seeking police protection. That was also allowed, on 23/04/2013. But again, on 25/05/2013, when the 1st respondent was making repair, the petitioners herein



C.R.P.(MD)No.51 of 2023

alleged to have trespassed into the property, picked up quarrel, abused and prevented him from doing the repair work. So, a complaint was given to the police, on 26/05/2013. But no proper action was taken by the Inspector of Police, Natham. Since frequently the defendants are making trouble, violating the decree and judgment, he filed EA No.20 of 2013 praying an order to attach the property of the defendants and for detaining them in civil prison for violating the judgment under order 39 Rule 2(A) CPC.

4.That was resisted by the petitioners. After full enquiry, the trial court directed imprisonment of the petitioners for a week.

5.Against which, this civil revision petition is preferred.

6.At the time of hearing, the learned counsel appearing for the petitioners has submitted that they are ready to file an affidavit that they will not make any trouble to the 1st respondent/plaintiff and will abide by the civil court judgment and decree. The relation portion of the affidavit runs like this:-



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C.R.P.(MD)No.51 of 2023

"5.I humbly submit that before the trial we filed a counter in the above execution application that we will obey the decree passed in the above said suit and we will work out our remedy before the appropriate forum. But the trial court without taking into consideration passed the order of arrest in the above execution application. Even before this Hon'ble Court on behalf of myself and the other respondents we are undertake that we will obey the decree passed in O.S No. 116 of 2006 on the file of Learned District Munsif cum Judicial Magistrate, Natham, Dindigul District dated 30.06.2009 and we will not indulge in any activities creating hindrance to the decree holder in the above suit. Therefore taking into consideration of the above said averments I humbly pray this Hon'ble court may be pleased to call for the records relating to the fair and decreetal order passed in E.A No.20 of 2013 in OS No.116 of 2006, dated 12.12.2022 on the file of the Learned District Munsif cum Judicial Magistrate, Natham, Dindigul District and set aside the same by allowing this Civil Revision Petition."



C.R.P.(MD)No.51 of 2023

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7.In view of the above said undertaking given by the petitioners, I am of the considered view that detaining them in the civil prison may not be required. The copy of the undertaking is also served upon the 1st respondent/plaintiff.

8.In the light of the above said development, I am of the considered view that the revision is liable to be allowed.

9.In the result, this civil revision petition is **allowed** and the impugned order passed by the trial court is set aside. The affidavit of undertaking given by the petitioners shall form part of this order. If any violation is noticed in future, the 1st respondent is at liberty to initiate action against the petitioners in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

18/03/2024

Index:Yes/No
Internet:Yes/No
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C.R.P.(MD)No.51 of 2023

WEB COPY To,

- 1.The District Munsif,
Natham,
Dindigul District.
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.R.P.(MD)No.51 of 2023

G.ILANGOVAN, J

er

C.R.P (MD)No.51 of 2023

18/03/2024