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CRP(MD)No.962 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

CRP(MD)No.962 of 2020
and
C.M.P(MD)No.6334 of 2020

N.Ilakkiya

... Petitioner/Petitioner/Plaintiff

Vs

1.P.Sethu

2.Ramamirtham

... Respondents/Respondents/Defendants

Prayer:

This Petition is filed under Article 227 of the Constitution of India to call for the records relating to the impugned fair and decreetal order dated 23.09.2020 made in I.A.No.250 of 2020 in O.S.No.46 of 2020 on the file of the learned District Munsif cum Judicial Magistrate, Orathanadu and set aside the same.

For Petitioner : Mr.V.S.Kumaraguru

For Respondents : Mr.D.Gnanasekaran

ORDER

The Civil Revision Petition is filed to set aside the impugned fair and decreetal order dated 23.09.2020 made in I.A.No.250 of 2020 in O.S.No.46 of



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2020 on the file of the learned District Munsif cum Judicial Magistrate,
Orathanadu.

2.The plaintiff in the suit in O.S.No.46 of 2020 has filed I.A.No.171 of 2020 for temporary injunction as against the respondent/defendants. The plaintiff contended that an interim injunction was granted in favour of the plaintiff in the above suit. After the grant of interim order, the plaintiff made an attempt to put up a superstructure. The respondents/defendants had objected to putting up a construction and therefore, the revision petitioner/plaintiff has filed I.A.No.250 of 2020 seeking police protection.

3.The trial Court found that the plaintiff has not stated what kind of objection or obstructive was created by the respondents/defendants and none of the details with regard to the disturbance or any other obstruction created by the respondents/defendants was stated in the affidavit filed in support of I.A.No.250 of 2020. Recording the same, the trial Court has dismissed the said I.A. Challenging the said I.A.No.250 of 2020, the present civil revision petition is filed.



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4.The learned counsel for the petitioner/plaintiff would contend that there is an injunction in favour of the plaintiff, it is the right of the plaintiff to put up a superstructure and even if the superstructure is being constructed, the defendants have no authority to obstruct.

5.Per contra, the learned counsel appearing for the respondents/defendants would submit that it is only a bare injunction suit, in which an injunction is granted in favour of the plaintiff, that does not mean the plaintiff has an authority to put up a superstructure. In the absence of any specific plea before the trial Court for putting up a superstructure, the plaintiff cannot put up any construction. In the absence of any material that was placed before the trial Court asking for police protection, the respondents/defendants have caused a hindrance in putting up the construction. The order passed by the trial Court is a well-reasoned order, which means no interference.

6.It is not in dispute that an injunction was granted in favour of the plaintiff in a bare injunction suit. The attempt made by the petitioner/plaintiff to put up the superstructure in the suit cannot be permitted, as the injunction itself is only to restrain the defendants from interfering with the possession of the plaintiff. The



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attempt made by the petitioner to enlarge the scope of the interim injunction in his favour is only an abuse of process of law.

7.The learned counsel for the petitioner would submit that the suit is pending from the year 2020 and hence, this Court may issue a direction to the trial Court to dispose of the suit for early disposal.

8.With the above observations, the Civil Revision Petition is disposed of with a direction to the learned District Munsif cum Judicial Magistrate, Orathanadu to dispose of the case in O.S.No.46 of 2020 within a period of one year from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
sjj

To

The District Munsif cum Judicial Magistrate, Orathanadu.



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N.SENTHILKUMAR, J.

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