

(2006) 12 MAD CK 0018

In the Madras High Court

Case No : Civil Revision Petition (PD) No. 1194 of 2006 and C.M.P. No. 1 of 2006

Anbazhagan by his Power Agent, Shanthi APPELLANT

Vs

Manickam by his Power Agent, M. Selvi RESPONDENT

Date of Decision : 04-12-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151

Citation : (2006) 12 MAD CK 0018

Hon'ble Judges : S. Ashok Kumar, J

Bench : Single Bench

Advocate : D. Krishnakumar, for the Appellant; K. Yamunan, for the Respondent

Final Decision : Allowed

Judgement

S. Ashok Kumar, J.—Aggrieved over the order of the learned Principal District Munsif, Namakkal, passed in I.A. No. 899 of 2005 in O.S. No. 123 of 2005 dated 08.06.2006, this Civil Revision Petition is filed.

2. The brief facts of the case are as follows:

The petitioner is the plaintiff in the suit. He filed the suit against the respondent for declaration and permanent injunction regarding the suit property. He also filed I.A. No. 374 of 2005 for temporary injunction and the same was also granted and subsequently was made absolute. Thereafter, the petitioner filed I.A. No. 899 of 2005 for seeking police protection on the ground that inspite of injunction granted by the learned Principal District Munsif, the defendant attached the pathway by putting stones on the pathway and he has prevented the tractor which is being taken to the lands. But in the said application no document was produced so as to give police protection. In the typed set, page No. 9 is the complaint dated 18.5.2005 against the respondent and the receipt of the complaint which has been given is found at page No. 10. On 18.04.2006, another complaint has been given by the petitioner to the Sub Inspector of Police against the respondent and the receipt of the complaint which has been given in

page No. 23 of the typed set of papers.

3. The learned Counsel appearing for the respondent would submit that he has not disobeyed the court order and no prejudice is caused by the respondent to the petitioner and therefore prays for dismissal of the petition.

4. The learned Counsel for the petitioner, in support of his contention, relied upon the judgment reported in N. Karpagam, P. Ramayee, M. Natarajan and P. Murugaiyan Vs. P. Deivanaiammal @ Deivathal @ Deivathayee Ammal, and the relevant portion of the judgment reads as follows:

6. It is also relevant to refer the Division Bench decision of this Court in Sri-la-Sri Sivasubramanyananda Swami v. Sri-la-Sri Arunachalasamy 1992 T.L.N.J. 120, wherein after considering the relevant provisions relating to grant of injunction and Section 151, C.P.C. the Bench has concluded that,

In view of the above position of law, it has to be held that in appropriate cases, directions u/s 151 of the Code can be issued by the Civil Courts to the police authorities to render aid to the aggrieved parties for the due and proper implementation of the order of temporary injunction or a decree for permanent injunction granted by the Civil Court.

finally, their Lordships have concluded that,

In appropriate cases, the Civil Court has the power and is indeed under a duty, to issue suitable directions to police officials, as servants of law, to extend their aid and assistance in the execution of decrees and orders of the Civil Courts or implementing an order of injunction passed by it.

7. In the light of the Division Bench decision holding that Civil Court has power to issue suitable directions to police to implement the orders, and in the light of the fact that injunction was in force from 26.3.2002 and the same was made absolute on 29.11.2002 and in view of the apprehension raised by the petitioner/respondent herein, I am satisfied that the learned Subordinate Judge was perfectly right in ordering police aid. In the light of the said factual details, the petitioners cannot have any valid defence to oppose the said application. I do not find any error or infirmity in the order impugned; consequently, the civil revision petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

5. The above cited facts are categorically similar to the facts of this case also.

6. In the above said circumstances, the Civil Revision Petition is allowed and the Sub Inspector of Police is directed to take necessary action to give protection to the petitioner and take necessary action against the respondent if he violates the injunction order granted by the Principal District Munsif, Namakkal.

7. With the above said direction, the Civil Revision Petition is disposed of. No costs. consequently, connected miscellaneous petition No. 1 of 2006 is closed.