

(2003) 01 MAD CK 0112

In the Madras High Court

Case No : Civil Revision Petition (PD) No. 2318 of 2002 and C.M.P. No. 19276 of 2002 and V.C.M.P. No. 643 of 2003

N. Karpagam, P. Ramayee, M. Natarajan and P. Murugaiyan APPELLANT
Vs

P. Deivanaiammal @ Deivathal @ Deivathayee Ammal RESPONDENT

Date of Decision : 31-01-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 227

Citation : AIR 2003 Mad 219 : (2003) 2 LW 398 : (2003) 1 MLJ 550

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : S. Thangavel, for the Appellant; S. Sethuratnam, for M. Duraiswamy, for the Respondent

Judgement

P. Sathasivam, J.—Aggrieved by the order of the learned Subordinate Judge, Karur, dated 20-12-2002, directing the Inspector of Police,

Vangal to provide police protection to the petitioner therein/respondent herein, the petitioners/respondents therein preferred the above Revision

under Article 227 of the Constitution of India.

2. Heard Mr. S. Thangavel, learned counsel for the petitioners and Mr. S. Sethuratnam, learned senior counsel for the respondent.

3. The petitioner/respondent herein has filed a suit in O.S. No.142/2002 on the file of the Subordinate Judge, Karur, praying for a decree of

permanent injunction restraining the defendants therein in any manner interfering with her peaceful possession and enjoyment of the suit property.

She also filed an application in I.A.No.221/2002 praying for a temporary injunction for the same effect. Originally an ex parte interim injunction

was granted and subsequently the said application was allowed and the injunction was made absolute on 29-11-2002. Thereafter, the

petitioner/respondent herein filed I.A.No. 1045/2002 u/s 151 of CPC praying for providing police protection to her to irrigate her lands, harvest

the tapioca plants, pluck the coconuts and carry out all types of farming operations. On 19-12-2002 notice was served on the respondents

therein/petitioners herein. On the next day i.e., on 20-12-2002, the learned Judge allowed the said application. Aggrieved by the said order, the

petitioners/respondents have filed the above Revision.

4. Mr. A. Thangavel, learned counsel for the petitioners/respondents, would contend that even though the counsel for the respondents therein after

taking notice prayed for time for filing counter on 19-12-2002 in I.A.No.1045/2002, the learned Subordinate judge without affording opportunity

them to file counter, passed a non-speaking order, granting direction for police protection on 20-12-2002. He also contended that police aid

cannot be granted with an order of injunction, for which he relied on a decision of this Court in THE COIMBATORE PIONEER MILLS LTD., v.

CHANDRA TEXTILES LTD., reported in 1996 1 L.W. 52. On the other hand, Mr. S. Sethuratnam, learned senior counsel for the respondent

herein/petitioner, would contend that in the light of the earlier order, granting injunction, that too after hearing both parties, in view of the attempt of

the petitioners herein to interfere with the peaceful possession of the respondent herein, the Court below was justified in granting police aid. He

also relied on a Division Bench decision of this Court in SRI-LA-SRI SIVASUBRAMANYANANDA SWAMI v. SRI-LA-SRI

ARUNACHALASAMY AND ANOTHER, reported in 1992 T.L.N.J. 120. There is no dispute that in I.A.No.221/2002, the learned

Subordinate Judge after hearing both sides and considering the materials placed before him, allowed the said application and granted injunction till

the disposal of the suit. It is the grievance of the respondent herein that in spite of the said order, the petitioners herein-defendants are making

attempts to interfere with her peaceful possession and enjoyment of the suit property. It is also stated that the tapioca plants are ripe for harvest

and she apprehends that the defendants may interfere with the harvesting of the tapioca plants and plucking the coconuts standing in the suit

property. In those circumstances, she filed I.A.No.1045/2002 seeking for a direction to the Inspector of Police, Vangal for providing protection to

her to irrigate the suit lands, harvest the tapioca plants, plucking the coconuts and carrying out all types of farming operations.

5. It is not disputed that on behalf of the petitioners herein/respondents therein, their counsel took notice even on 19-12-2002 and no doubt, he

made an endorsement on the petition itself, praying time for filing counter. The learned Subordinate Judge on 20-12-2002, after holding that notice

was served on the other side and after hearing both parties, ordered the said application. Though the learned Subordinate Judge has not passed a

considered order, giving reasons for allowing the said application, as rightly argued by the learned senior counsel for the respondent herein, in the

light of the fact that injunction was already granted and the same was made absolute till the disposal of the suit, that too after contest, and after

hearing both sides in I.A.No.221/2002, there is no need to pass a detailed order, since the petitioners/respondents was in no way prejudiced by

allowing the said application. It is to be noted that even according to the petitioners, on the application of the respondent herein/plaintiff, on

showing prima facie case, the learned Subordinate Judge initially granted temporary injunction and thereafter, after filing counter and after

considering the materials placed and after hearing both sides, made the said injunction absolute. In the present application for seeking police aid,

the respondent has highlighted the position of the crop raised in the suit land and her apprehension that the petitioners are making attempts to

interfere with her peaceful possession and raising crops etc. In such a circumstance, considering the apprehension of the respondent and the time

factor that it is a fit case which cannot be delayed, I am of the view that the learned Subordinate Judge was perfectly right in ordering the

application for police aid. No doubt, in 1996 1 L.W. 52 (cited supra), Srinivasan, J. (as he then was) has held as follows: (para 6)

6. In one sense, the order is unworkable as it reads that police aid is granted, if necessary. So, the necessity of police aid is to be decided by the

party and is not to be decided by the court. In such circumstances, the District Munsif ought not to have passed such an order. Further, police aid

cannot be granted simultaneously with an order of injunction. Only if the court is satisfied that the order of injunction passed by it is not obeyed by

the other party and the party, who has secured the order, is not in a position to enjoy the benefits of the order because of the conduct of the other

party and police interference is absolutely necessary, the court can grant an order of police aid...

In the light of the conclusion of the learned Judge, I have carefully verified the facts in that case. It is seen that the Principal District Munsif,

Coimbatore, after granting ad-interim injunction, simultaneously passed an order for providing police aid. The said procedure and the order

granting police aid has been criticized by the learned Judge. In our case, admittedly, there was an order of temporary injunction, and the learned

Judge, after complying with all the formalities, after considering all the materials, and after hearing both sides, made the injunction absolute. It is to

be noted that on 26-3-2002 the Sub Court granted interim injunction and thereafter, after taking into consideration the documents filed by both

parties and the merits of the case, by order dated 29-11-2002, allowed I.A.No.221/2002. The present application seeking police aid has been

filed on 19-12-2002. In such a circumstance, the decision of Srinivasan, J. relied on by the learned counsel for the petitioners is not helpful to the

case on hand.

6. It is also relevant to refer the Division Bench decision of this Court reported in 1992 TLNJ 120 (cited supra), 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.