
(2015) 06 MAD CK 0472

In the Madras High Court

Case No : C.R.P. (PD)(MD) No. 1377 of 2014, M.P. (MD) Nos. 1/2014 and 1 of 2015

Ramiya Puliyadi Thimma Easwari Kutti and Others

APPELLANT

Vs

Alwar and Others

RESPONDENT

Date of Decision : 02-06-2015

Acts Referred:

Citation : (2015) 06 MAD CK 0472

Hon'ble Judges : K.K. Sasidharan, J

Bench : Single Bench

Advocate : M. Vallinayagam, Senior Counsel for J. Anandkumar, for the Appellant; M. Thirunavukkarasu, Advocates for the Respondent

Final Decision : Disposed off

Judgement

K.K. Sasidharan, J—The Trial Court granted temporary injunction in favour of petitioners in I.A. No. 310 of 2013 in O.S. No. 282 of 2013. The first Appellate Court reversed the order and dismissed the application for temporary injunction. Feeling aggrieved, the petitioners are before this Court.

2. The petitioners filed a suit in O.S. No. 282 of 2013 before the learned Principal Subordinate Judge, Madurai, against the respondents, praying for a decree of permanent injunction. The petitioners in the said suit filed an interlocutory application in I.A. No. 310 of 2013 for interim injunction. The learned Trial Judge, on the basis of prima facie case and balance of convenience, granted an order of temporary injunction on 30 April, 2013. Respondents 3 to 5 challenged the order dated 30 April, 2013, in I.A. No. 310 of 2013 before the learned Sixth Additional District Judge, Madurai, in C.M.A. No. 15 of 2013.

3. The learned Appellate Judge was of the view that none of the parties have proved that they are in possession of the property and performing pooja. The learned Appellate Judge, therefore, vacated the interlocutory injunction and allowed the Civil Miscellaneous Appeal. Feeling aggrieved, the petitioners are

before this Court.

4. Heard the learned Senior Counsel for the petitioners and the learned respective counsel appearing on behalf of the respondents.

5. The temple in question is stated to be situated on a public property. The petitioners pleaded that they have been performing poojas and the respondents made an attempt to interfere with their right. The Trial Court was of the view that the petitioners have proved prima facie case and the balance of convenience is also in their favour.

6. The learned Appellate Judge revised the finding primarily on the ground that the property belongs to Government. This Court passed an order on 03 July, 2014, directing the parties to maintain status quo. The suit is now ripe for trial. There is no question of considering the merits or otherwise of the contentions taken by the parties in the interlocutory application at this point of time. It is for the Trial Court to decide the suit on its own merits.

7. The learned Senior Counsel for the petitioners, on instructions, submitted that the petitioners would not prevent the respondents from worshipping the Deity. The learned Senior Counsel further submitted that the petitioners would perform daily poojas and they would permit all others including respondents to worship.

8. The learned counsel for respondents 1 and 2 submitted that the petitioners never allowed the respondents to offer prayers. The learned counsel further submitted that the respondents were also doing poojas and as such, the said status quo should be maintained till the disposal of the matter.

9. It is not possible to ascertain the present status quo on the basis of pleadings. The Court below has given a clear observation that the petitioners and the respondents are equally entitled to offer prayers. The said status quo would continue till the disposal of the suit. In short, the petitioners, without prejudice to the contention taken by the respondents, would perform the poojas till the disposal of the suit. However, such permission would not give them a right to claim that they are entitled to conduct poojas.

10. The learned Trial Judge is directed to dispose of the suit in O.S. No. 282 of 2013 on merits and as per law, without in anyway being influenced by the earlier order in I.A. No. 310 of 2013 or the judgment in C.M.A. No. 15 of 2013. There shall be a further direction to the learned Principal Subordinate Judge, Madurai, to dispose of the suit, as expeditiously as possible and in any case, within a period of four months from the date of receipt of a copy of this order.

11. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.