
(2014) 08 MAD CK 0250

In the Madras High Court

Case No : C.R.P. (PD). No. 3027 of 2014 and M.P. No. 1 of 2014

S. Ramalingam

APPELLANT

Vs

D. Amirtharaj

RESPONDENT

Date of Decision : 14-08-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 10

Citation : (2014) 08 MAD CK 0250

Hon'ble Judges : R. Mala, J

Bench : Single Bench

Judgement

R. Mala, J.—Civil Revision Petition is filed against the fair and decreetal order dated 05.07.2014 made in I.A. No. 841 of 2014 in O.S. No. 512 of 2014 on the file of the Principal District Munsif Court at Alandur, Chennai.

2. At the time of admission, argument of the learned counsel for the petitioner is heard in length.

3. The revision petitioner herein as a plaintiff filed a suit for the following reliefs:

(a) For grant of permanent injunction restraining the 1st defendant or any other men, agents, or servants or in any of the claiming on behalf of the 1st defendant from interfering with the operation of the cable TV connection under name and style of Vignesh and Shiva Cable Network having office at No. 3012, Kannagi Nagar, Thuraipakkam, Chennai-600 096 without following due process of law.

4. At the time of filing suit, the plaintiff has also filed an application in I.A. No. 12428 of 2013 for an ad interim injunction till the disposal of the suit on the file of the City Civil Court, Chennai. The City Civil Court, Chennai, by an order dated 04.09.2013, has granted ad interim injunction till 18.09.2013 and that has been periodically extended till 22.04.2014.

5. On 08.10.2013, the first respondent/1st defendant has filed an application in I.A. No. 16451 of 2013 under Order VII Rule 10 of C.P.C. to reject the plaint

stating that the City Civil Court, Chennai, has no territorial jurisdiction to entertain the suit and the same was allowed by the trial Court on 22.04.2014 and the plaint was ordered to be returned.

6. In view of the above, the plaintiff/revision petitioner present the suit before the Principal District Munsif Court, Alandur, which has territorial jurisdiction and the suit was numbered as O.S. No. 512 of 2014 and the application was numbered as I.A. No. 841 of 2014. At that time, the revision petitioner/plaintiff sought for extension of interim order, which was already granted by the City Civil Court, Chennai, since he is enjoying the same or alternatively, he sought for fresh interim order. On 05.07.2014, the trial Court passed the order stating that interim order already granted by the City Civil Court, Chennai is non est in the eye of law, since it was passed without territorial jurisdiction, aggrieved over the same, the present revision petition is preferred by the revision petitioner/plaintiff.

7. Learned counsel for the revision petitioner submitted that admittedly the suit was filed before the City Civil Court, Chennai and that Court has granted interim injunction on 04.09.2013 and it was enjoyed by the plaintiff till 22.04.2014. It is further submitted that after granting of interim injunction, the first respondent/1st defendant has filed an application in I.A. No. 16451 of 2013 to reject the plaint within the stipulated time (i.e.) on 08.10.2013. So the trial Court ought to have extended the injunction granted by the City Civil Court, Chennai, but instead of extending the interim order, the trial Court passed the order on 05.07.2014 stating that interim order granted by the City Civil Court, Chennai, is non est in the eye of law. Hence, he prayed for allowing the revision petition.

8. On perusal of the record, it reveals that the conduct of the plaintiff would show that the Court at Alandur is having territorial jurisdiction to entertain the suit. But admittedly, the suit was filed before the City Civil Court, Chennai, wherein the plaintiff has obtained an ex parte order of injunction and he is enjoying the interim injunction from the date of filing the suit till 22.04.2014 (i.e.) the order passed in I.A. No. 16451 of 2013, which is the application filed for rejecting the plaint under Order VII Rule 10 of C.P.C. Since the respondent/defendant has appeared, the trial Court ought to have disposed of the I.A. No. 841 of 2014 on merits instead of passing the order stating that interim order granted by the City Civil Court, Chennai, is non est in the eye of law, since it has no territorial jurisdiction. An ad interim injunction has been granted on 04.09.2013, without deciding the same on merits within 30 days, the City Civil Court, Chennai, has extended the interim order periodically. So the action of the trial Judge, City Civil Court, Chennai, is not appreciable.

9. Considering the aforesaid circumstances, once the Principal District Munsif Court, Alandur, is having territorial jurisdiction and the respondent was appeared and filed the counter, the Principal District Munsif Court, Alandur, ought to have given an opportunity to both sides and dispose of the application within short spell of time instead of passing such order on 05.07.2014. Therefore, the order

passed by the Principal District Munsif Court, Alandur, is set aside and no injunction has been granted in favour of the plaintiff. The Principal District Munsif Court, Alandur, is directed to dispose of the application in I.A. No. 841 of 2014 within 30 days from the date of receipt of a copy of this order, after giving opportunity to both sides, in accordance with law.

10. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.