
(2011) 08 MAD CK 0321

In the Madras High Court

Case No : C.R.P. (PD) (MD) No. 1527 of 2011 and M.P. (MD) No. 1 of 2011

Sri Rengalakshmi Educational Trust

APPELLANT

Vs

David Raj, Rejenthiri and Dhayamani

RESPONDENT

Date of Decision : 18-08-2011

Acts Referred:

Citation : (2011) 08 MAD CK 0321

Hon'ble Judges : C.S. Karnan, J

Bench : Single Bench

Advocate : K. Vamanan, for the Appellant; C. Sundaravadivel, for the Respondent

Judgement

C.S. Karnan, J.—The revision Petitioners/defendants have filed the above revision to set aside the order passed in I.A. No. 463 of 2011 in O.S. No. 375 of 2011 on the file of District Munsif, Dindigul, dated 21.06.2011.

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

The Respondents/plaintiffs have filed a suit against the revision Petitioners/defendants for injunction restraining the Respondents, their men or agent or any one acting on behalf of the Respondents from any way interfering with the Plaintiffs' peaceful possession and enjoyment of the suit property, pending disposal of the application and permanent injunction restraining the Respondents, their men or agent or any one acting on behalf of the Respondents herein from any way interfering with Plaintiffs peaceful possession and enjoyment of the suit property, pending disposal of the suit. The said case came for hearing on 21.06.2011, the learned Judge, after perusal of the documents relating to the suit schedule mentioned property, granted adinterim injunction restraining the revision Petitioners/defendants from interfering with the peaceful possession of the suit property.

3. The court notice was served on the revision Petitioners. The 4th revision Petitioner/4th Defendant has filed counter statement. The same was adopted by

the 1st, 2nd and 3rd revision Petitioners/ 1st, 2nd and 3rd Defendants. Thereafter the learned Judge has adjourned the injunction suit from time to time and the interim order has been extended. Hence, the revision Petitioner has filed the above revision petition to set aside the interim order granted in the interlocutory application in I.A. No. 463 of 2011 in O.S. No. 375 of 2011 dated 21.06.2011 on the file of the District Munsif Court, Dindigul.

4. The Learned Counsel for the revision Petitioner argued that the Respondents/ plaintiffs are not in possession of the suit property. Actually the revision Petitioners are in possession from the year 1985 onwards i.e., since the date of purchase of the suit property. The Learned Counsel further argued that the patta was in the name of the erstwhile owner of the revision Petitioners. Now, a writ petition is pending on the file of this Court regarding patta proceedings.

5. The Learned Counsel further argued that the prima facie case irreparable loss and balance of convenience have not been proved in favour of the Plaintiffs. Even then, the learned District Munsif has granted ad-interim injunction in favour of the Plaintiffs stating that prima facie case has been made out only. If the three principles listed above have been made out, could the learned Judge grant injunction.

6. The Learned Counsel for the caveator/respondent argued that the Plaintiffs have filed the injunction suit along with 16 documents, all of which relate to the suit property. After scrutinising the suit documents, the learned Judge had granted interim injunction. Now, the interim injunction application is ready for hearing. Under the circumstances, the revision Petitioners have approached this Court, at an advanced stage in the proceedings. So far, the learned judge has not passed permanent injunction. As such, the revision petition is not maintainable.

7. In view of the facts and circumstances of the case and arguments advanced by the Learned Counsels on either side, this Court is of the considered opinion that the revision Petitioners have filed counter statement in the said interim injunction application and have opposed the same. The interim injunction application has been posted for hearing for final disposal. Under the circumstances, the revision Petitioners cannot be entertained. Therefore, this Court directs the learned District Munsif, Dindigul to dispose of the interlocutory application in I.A. No. 463 of 2011 in O.S. No. 375 of 2011 within a period of two weeks from the date of receipt of this order, without being influenced by this Court's discussion. Accordingly ordered.

8. In the result, the above civil revision petition is disposed of with the above observations. Connected Miscellaneous Petition is closed. There is no order as to costs.