

IN THE COURT OF THE DISTRICT MUNSIF AT MADURANTAKAM

PRESENT: Tmt. V. Devapriya, B.Sc.,M.L.,
District Munsif, Madurantakam
Monday, the 28th day of October, 2024

I.A.No. 4/2021
in
I.A.No. 2/2020
in
O.S.No. 115/2020

Murugan

...Petitioner/Petitioner/Plaintiff

-vs-

Mangai

...Respondent/Respondent/Defendant

This petition coming up before me on 01.10.2024 for final hearing in the presence of, Thiruvargal.K.Selvam, and R.Chenthamizhan, counsels for the Petitioner/Petitioner/Plaintiff and Thiru.D.Sasikumar, counsel for Respondent/Respondent/Defendant and after hearing the arguments on both sides, and upon perusing the materials placed on record, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition has been filed by the Petitioner/Petitioner/Plaintiff under Order XXXIV Rule 2-A of Code of Civil Procedure to punish the Respondent/Respondent/Defendant for wilful disobedience of the order of temporary injunction passed in above I.A.No.4/2021 dated 04.11.2020.

2.The averments stated in the petitions in brief:

The Petitioner/Petitioner/Plaintiff had filed the above suit for permanent injunction and I.A.No.2/2020 in the above suit for temporary injunction. The said I.A. was allowed on 04.11.2020 and interim injunction is in force from 04.11.2020 to 08.12.2020. The suit property was purchased by the Petitioner/Petitioner/Plaintiff's father Kathavarayan from Murugesan Gounder, Mottaiyandi Gounder and Arumugha Gounder on 27.08.1973. The Respondent/Respondent/Defendant is the daughter of said Mottaiyandi Gounder and she is attempting to grab the vacant site in S.No.29/3 and the group house in S.No.29/2, claiming that she has right and title over the suit property.

3. The order of interim injunction was served on the Respondent on 07.11.2020 and the same is in force till 30.11.2020. Since, the Petitioner/Petitioner/Plaintiff is working out of the village, he and his wife Thilagavathi, was out of station, on 10.11.2020, and they left their aged mother in the house. The Petitioner/Petitioner/Plaintiff came to know through phone from his mother that, taking advantage that the Petitioner/Petitioner/Plaintiff is not in station, the Respondent/Respondent/Defendant had break opened the lock of the group house in S.No.29/2 and had kept her things and had stored the sand in S.No.29/3. The Respondent/Respondent/Defendant did not appear before this court for hearing on 30.11.2020 and the hence the case was posted for Exparte evidence on 08.12.2020.

4. On 02.12.2020, the staff of the TNEB namely, Babu had come to the group house at about 12.00 p.m. to give electricity connection and to fix the meter. The Petitioner/Petitioner/Plaintiff had shown the order of the court. But the said staff had not obeyed the same. Therefore, the Petitioner/Petitioner/Plaintiff called his advocate and when his advocate spoke to him, the said staff did not heard him. The Petitioner/Petitioner/Plaintiff had given objection letter on 28.04.2015, to the TNEB to not to grant electricity connection to the house in S.No.29/2, except for the Petitioner/Petitioner/Plaintiff.

5. The Petitioner/Petitioner/Plaintiff had lodged a complaint before the Melmaruvathur Police Station on 03.12.2020. The Respondent/Respondent/Defendant had disobeyed the order of this court on 07.11.2020 and had encroached the group house in S.No.29/2 and vacant site in S.No.29/3. Hence this petition.

6. The averments stated in the counter filed by the Respondent/Respondent/Defendant, in brief:

This petition is not maintainable. The extent of Ac. 0.04 ½ cents in the suit property was purchased by Respondent/Respondent/Defendant's brother namely, Selvaraji on 21.04.1984 from one Subramaniya Gounder and he was in possession of the same till his death. Thereafter, the Respondent/Respondent/Defendant's father Mottaiyandi was in possession of the same till his death. From the above Ac. 0.04 ½ cents, the Respondent/Respondent/Defendant is having only Ac. 0.01 ½ cents in

S.No.29/3. The Petitioner/Petitioner/Plaintiff had grabbed the remaining Ac. 0.03 cents in the Respondent/Respondent/Defendant's property.

7. Recognizing the possession of the suit property by the Respondent/Respondent/Defendant and her family, the Government had granted group house in the name of Respondent/Respondent/Defendant. Since, the Respondent/Respondent/Defendant is a widow, the Government had granted group house for S.No.29/3. The Petitioner/Petitioner/Plaintiff had falsely stated that group house for constructed by his father. The Petitioner/Petitioner/Plaintiff is not in possession of the group house in S.No.29/3 and the same is in possession of the Respondent/Respondent/Defendant.

8. The Respondent/Respondent/Defendant is in possession of the said house from the year 1984, and therefore the Petitioner/Petitioner/Plaintiff is not entitled for any relief. The Respondent/Respondent/Defendant had given petition to grant patta and the Petitioner/Petitioner/Plaintiff had filed the above suit to defeat the same. There is no cause of action in the above suit and the Petitioner/Petitioner/Plaintiff had filed the above suit to grab the property of the Respondent/Respondent/Defendant. The Petitioner/Petitioner/Plaintiff is not in possession of the Ac.0.05 cents. But he is in possession in only Ac. 0.02 $\frac{1}{4}$ cents. The Petitioner/Petitioner/Plaintiff is not entitled for injunction against true owner. Hence, this petition is liable to be dismissed with costs.

9. The point for determination is whether this petition is to be allowed or not?

10. On the side of Petitioner/Petitioner/Plaintiff, PW1 and PW2 were examined and Exhibits P1 to P7 were marked and on the side of Respondent/Respondent/Defendant, RW1 was examined and Exhibits R1 and R2 were marked.

11. Heard both sides perused the records.

12. The Petitioner/Petitioner/Plaintiff/Plaintiff had filed this petition to punish the Respondent/Respondent/Defendant for disobeying the order of the temporary injunction. The Respondent/Respondent/Defendant resisted the petition stating that she is in possession of the suit property.

13. The Petitioner/Petitioner/Plaintiff had stated that the inspite of the knowledge of the temporary injunction, the Respondent/Respondent/Defendant had wilfully disobeyed the order and had break opened the lock of the group house in the suit property. The Petitioner/Petitioner/Plaintiff examined himself as PW1 and during his cross examination, he had deposed that after knowing the temporary injunction order, the Respondent/Respondent/Defendant had brought the household things from Chennai and kept the same in the house in the suit property, by unlocking the same.

14. The Petitioner/Petitioner/Plaintiff examined his mother, Kamatchi as PW2 and in her cross examination, she had deposed that since they had locked the house of the Respondent/Respondent/Defendant, she had lodged complaint before the Achirapakkam police station. The PW2, further deposed that since the Respondent/Respondent/Defendant is their relative, they had not objected for her to

construct the house and further she deposed that since the Petitioner/Petitioner/Plaintiff was very young, he does not know the same.

15. In Exhibit P-1, complaint, the Petitioner/Petitioner/Plaintiff had stated all the facts, as stated in this petition. The Petitioner/Petitioner/Plaintiff further stated in this petition that he had lodged complaint on 03.12.2020 and the Exhibit P-2 is also dated 03.12.2020. But in Exhibit P-2, the gist of the complaint is mentioned that the Respondent/Respondent/Defendant had abused the Petitioner/Petitioner/Plaintiff on 02.12.2020 in respect of house dispute. In Exhibit P-2, it is not mentioned that the Respondent/Respondent/Defendant had break-opened the house of the Petitioner/Petitioner/Plaintiff, in the suit property. Therefore it is not known whether the Exhibit P-2 is issued based on Exhibit-P1. Further, the Petitioner/Petitioner/Plaintiff had filed the original copy of the complaint as Exhibit P-1. Therefore it is also not known whether the Petitioner/Petitioner/Plaintiff had lodged the said complaint before the police station. Thus, there is no considerable evidence to show that the Respondent/Respondent/Defendant had break-opened the house of the Petitioner/Petitioner/Plaintiff.

16. The Petitioner/Petitioner/Plaintiff had stated that the Respondent/Respondent/Defendant had stored sand in the suit property. The Respondent/Respondent/Defendant examined herself as RW1 and during his cross examination, she had admitted that the sand in Exhibit P-6 was kept by her. But there is no evidence to show that the place in which the said sand was kept, is the suit property.

17. The Petitioner/Petitioner/Plaintiff had not adduced considerable evidence to prove that the Respondent/Respondent/Defendant had willfully disobeyed the injunction order. Hence, for the foregoing reasons, this court is not inclined to allow this petition.

18. In the result, this petition is dismissed. No costs.

Partly dictated to the Stenographer, typed by her and partly typed by me in my laptop, corrected and pronounced by me in open court on this the 28th day of October, 2024.

District Munsif
Madurantakam

Petitioner side witnesses:

PW1 - Murugan
PW2 - Kamatchi

Petitioner side documents:

Ex P1 - Copy of Complaint
Ex P2 - CSR dated 03.12.2020
Ex P3 - Photo with CD
Ex P4 - Letter of the Assistant Engineer, TNEB, Melmaruvathur dated 04.05.15
Ex P5 - Petition given to Assistant Engineer, TNEB, Melmaruvathur
Ex P6 - Photo
Ex P7 - Photo

Respondent side witnesses:

RW1 - Mangai

Respondent side documents:

Ex R1 - House Tax receipts (5 nos.)
Ex R2 - Certified Copy of sale deed dated 21.03.1984

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