

IN THE COURT OF THE DISTRICT MUNSIF, PONNERI.

PRESENT: Tmt. V. Vannamalar, M.L., PGDIPR., PGD in CrI. & Fr.Sc.,
District Munsif, Ponneri.

Wednesday, the 24th day of July 2024

I.A. No.1662 of 2015

IN

O.S.No.160 of 2015

C.Vinoth

..... Petitioner/Plaintiff

Versus

1. Kalavathy @ Elizabeth

2. Sethu

3. Raj

..... Respondents/Defendants

This petition having come on 26.06.2024 before me for final hearing in the presence of Mr.S.Saravanan and Mr.Vinoth Kannan, learned counsels for the Petitioner, the Respondents 1 to 3 were set exparte, upon hearing the submissions made by the learned counsels for petitioner and on perusal of the material case records, this Petition having stood over for consideration till this day, this Court delivers the following:

ORDER

1. This petition has been filed under Order 39 Rule 2(A) of CPC to punish the respondents by putting them in civil prison for contempt of court for violation of the interim injunction granted in I.A.No.1294 of 2015.

2. Brief averments of the affidavit filed by the petitioner are as follows:

2.1. The Petitioner who is the plaintiff in the suit submits that he has filed the above suit for permanent injunction to restrain the defendants, their men, agents, servants or any other persons claiming under them from obstructing the petitioner while fencing around the suit property in any manner and from interfering or obstructing or disturbing with the petitioner's peaceful possession and enjoyment of the suit

property. The said relief of injunction was granted in I.A.No.1294 of 2015 and the same was in force.

2.2. The petitioner further submits that on 08.08.2015 the respondents trespassed in the suit 'B' schedule property and constructed a wall in the suit 'B' schedule property and subsequently threatened the petitioner that they would trespass in to the suit 'C' schedule property. The petitioner immediately lodged a complaint before M-7, Manali New Town Police Station for which CSR No.167/2015 was issued. The police authorities have not taken any further action on the said complaint and advised the petitioner to approach civil court for proper remedy. The respondents have violated the order of interim injunction granted by this court in I.A.No.1294 of 2015 and hence this petition.

3. The respondents 1 to 3 have failed to file their counter in this petition and hence they are set exparte.

4. Neither the petitioner nor the respondents have placed any oral or documentary evidence before this court. Now, it is the paramount duty of the court to decide whether this petition is to be allowed or not.

5. Heard petitioner's side arguments. Records Perused.

6. Upon considering the material case records and arguments placed before this court, this court finds that the petitioner who is the plaintiff in the suit has filed this suit for a relief of declaration and injunction as against the respondents/defendants. When the suit was taken on file on 17.08.2015, an interim injunction was granted by this court in IA No. 1294 of 2015 thereby restraining the respondents and their men from interfering with the petitioner's peaceful possession and enjoyment of the suit 'C' schedule property. The petitioner contends that when the said interim injunction was in force on 08.08.2015, the respondents trespassed in the suit 'B' schedule property and constructed a wall in the suit 'B' schedule property and also threatened the petitioner that he would trespass into the suit 'C' schedule property and that the

petitioner has lodged a complaint with the Manali New Town Police Station and a CSR No. 167 of 2015 was issued by the said police. The petitioner to substantiate his contentions has not submitted before this court either a copy of the said complaint alleged to have been lodged by him before the police station or the CSR alleged to have been issued by the police station. Moreover on perusal of the records, the interim injunction was granted only on 17.08.2015 by this court with respect to only suit 'C' schedule property. But this petition has been filed for an incident that alleged to have happened on 08.08.2015, when there was no injunction order in force. Though the respondents have failed to file their counter in this petition and were set exparte, the initial burden of proof lies on the petitioner to prove his case.

7. On careful analysis of the above, this court views that the petitioner has only contended that the respondents have threatened that they would trespass in the suit 'C' schedule property but has not alleged any actual attempt of trespass by the respondents in the said suit 'C' schedule property. The petitioner has also not submitted any evidence to prove any actual interference on the ground made by the respondents in the said suit 'C' schedule property after the date of order of interim injunction in IA No. 1294/2015 i.e., after 17.08.2015. Thus this court is not inclined to allow this petition as there is no merit in this petition.

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

Dictated to the Steno-typist, who directly typed the same in the desktop computer, corrected and pronounced by me in the open Court on this the 24th day of July 2024.

**DISTRICT MUNSIF
PONNERI**

Both sides documents and witnesses: Nil

**DISTRICT MUNSIF
PONNERI**

Fair/ Draft Order
I.A.No.1662/2015
O.S.No.160/2015
Date:24.07.2024
DMC,PNI.