

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 8.4.2015

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.606 of 2015

and

M.P.No.1 of 2015

1. N.Ponnusamy
2. Mylsamy
3. P.Devi

...Appellants

vs.

1. N.Subramaniyam
2. Gobinath
3. Karthikeyan

...Respondents

Civil Miscellaneous Appeal against the order dated 23.1.2015 passed in I.A.No.350 of 2014 in O.S.No.153 of 2014 on the file of the II Additional District Judge, Erode.

For appellants : Mr.V.Balamurugane

For respondents : Mr.S.Kaithmalai Kumaran

JUDGMENT

Appeal has been filed by the plaintiffs in the suit for partition, against the dismissal of the injunction application.

2. Heard the learned counsel for the appellants and the learned counsel for the respondents.

3. The Trial Court dismissed the application only on the ground that there cannot be an order of injunction against a co-owner. However, the apprehension of the petitioners/appellants that if the respondents are allowed to make construction, they may claim equity during the final decree proceedings cannot be ignored and therefore, to dispel the said apprehension, the respondents have filed an undertaking affidavit stating that they would not claim any equity in

the final decree proceedings based on the new construction being put up by them in the year 2014 as alleged by the appellants. The said affidavit is received.

4. Recording the undertaking made by the respondents in para 3 of the affidavit, the appeal is disposed of. The Trial Court is directed to expedite the trial. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. II Additional District Judge,
Erode.

2. The Section Officer,
V.R. Section,
High Court, Madras.

1 CC to M/s. A.K. Kumarasamy, Advocate SR.No. 19448

1 CC to Mr.V.Balamurugane, Advocate SR.No. 20007

C.M.A.No.606 of 2015

CA (CO)
PSI (28.04.2015)

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