

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2015

CORAM

THE HON'BLE Mr.SANJAY KISHAN KAUL, THE CHIEF JUSTICE
and
THE HON'BLE Mr.JUSTICE T.S.SIVAGNANAM

O.S.A.No.189 of 2015

S.S.Pankajam

... Appellant

Versus

1.Tmt.Visalakshi Ammal

2.T.Devasena

3.S.S.Meenakshi Sundaram I.A.S.,
S/o.S.M.Subbiah,
Sub-Divisional Officer (Civil),
Hojai Sub-Division,
Staying at Hojai Circuit House,
Nagaon District.
Assam State.

4.V.C.Govindadoss Reddiar

5.D.V.Pratap

6.K.Gunasekaran

... Respondents

Prayer : Appeal filed under XXXVI Rule 1 of O.S.Rules and
Clause 15 of the Letters patent against the judgment and decree
dated 09.06.2009 in O.A.No.859 of 2008 in C.S.No.195 of 2008.

For Appellants : No Appearance

For Respondents : Mr.P.R.Ramanujam for RR1 to R6

J U D G E M E N T

(Order of the Court was made by T.S.SIVAGNANAM, J.)

This appeal by the plaintiff in person is directed against the order dated 09.06.2009 in O.A.No.859 of 2008 in C.S.No.195 of 2008.

2. The said application was filed to restrain the respondent/defendant from alienating, encumbering or otherwise dealing with the property concerned, particularly those mentioned in items Nos.1 to 3 in the schedule to the Judges summon filed in the said application. The appellant/plaintiff filed the suit to direct the defendants 1, 4 to 6 to render accounts from the date of the power of attorney/agreement granted by the plaintiff, for a perpetual injunction restraining the respondents/defendants 1, 4 to 6 from in any manner dealing with the property concerned.

3. The appellant/plaintiff alleged that the first defendant in collusion with the defendants 2 and 3 are planning to alienate or encumber the properties concerned and in the event they are allowed to do so, it will cause great irreparable prejudice to the appellant/plaintiff and therefore, sought for an order of interim injunction to restrain the respondents/defendants from alienating, or encumbering the property. The relationship between the parties is not in dispute. The second and third defendants are the sister and brother of the appellant/plaintiff and the first defendant is her mother. In the counter affidavit filed by the first respondent/first defendant, she had stated that she is not trying to deal with the property and apprehension that the property may be dealt with by them is unfounded and malicious. The first respondent/first defendant contended that the appellant/plaintiff having executed a power of attorney authorising them and being party to the transaction, the application for injunction lacks bonafide. Further, it was contended that whenever the property was dealt with, the due share would be given to the appellant/plaintiff and in any event, after a period of three years, she cannot turn back and make allegations against her own mother, brother and sister. Thus, it was submitted that the application seeking for a relief of interim injunction is vexatious.

4. The other respondents/defendants also filed counter affidavits on the same lines and resisted the prayer for injunction.

5. The learned single Judge taking note of the statement made by the first respondent/first defendant in the counter, dismissed the application.

6. The appellant, who has filed this appeal in person, is not present, when the matter was heard.

7. We may note that the impugned order was passed on 09.06.2009 and from the memorandum of grounds of appeal, it appears that except raising the same contentions as raised in the affidavit filed in support of O.A.No.859 of 2008, the appellant has not specifically pointed out as to what is the error in the order.

8. The only ground raised by the appellant is that the learned Single Judge having recorded the statement made in paragraph 5 of the counter affidavit filed by the first respondent ought not to have dismissed the application. The ground raised by the appellant does not merit acceptance for the simple reason that the learned single Judge was convinced that the appellant has not made out a case for grant of an order of interim injunction in the light of the specific statement made by the first respondent/first defendant in the counter affidavit filed in the injunction application.

9. The first respondent/first defendant, mother of the appellant, has specifically stated in paragraph 5 of the counter affidavit that she is not trying to deal with the property and the apprehension that they will deal with the property is totally unfounded and malicious. Further, it has been stated that she has filed a Civil Suit in C.S.No.1364 of 1995, which is pending before this Court and the appellant/plaintiff has filed an application for impleading herself in the said Suit and this according to the first respondent is an attempt to confuse the minds of the Court and thereby creating confusion and chaos in the administration of the property belonging to the first respondent over which she claimed life interest.

10. In the light of the categorical stand taken by the first respondent in her counter affidavit which obviously binds the first respondent, the learned single Judge was right in

dismissing the injunction application. In the absence of any other grounds raised by the appellant, we do not find any good reasons to interfere with the said order. Accordingly, the Appeal fails and the same is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

pbn

To

The Sub Assistant Registrar,
Original Side,
High Court, Madras.

+1cc to Mr.P.R.Ramanujam, Advocate, S.R.No.52387

O.S.A.No.189 of 2015

MG(CO)
CA(02/11/2015)



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