



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2016

CORAM:

THE HONOURABLE Mr.JUSTICE K.KALYANASUNDARAM

C.M.A.(MD)No.647 of 2016

and

C.M.P.(MD)No.6877 of 2016

K.Manivannan

..Appellant/1<sup>st</sup> Respondent/1<sup>st</sup> Defendant

Vs.

1.K.Rajesh Kumar

..1<sup>st</sup> Respondent/Petitioner/Plaintiff

2.K.Amuthan

3.Suganthi

4.Jothi

5.K.Ponnuthayee

..Respondents 2 to 5/Respondents 2 to 5  
/Defendants 2 to 5

Prayer: Civil Miscellaneous Appeal is filed under Order 43 Rule 1 (r) CPC., to set aside the fair and decretal order dated 24.03.2016 in I.A.No.318 of 2012 in O.S.No.49 of 2012 on the file of the Principal District Judge, Karur.

For Appellant : Mr.G.R.Swaminathan for  
Mr.R.Murali

For Respondents : Mrs.Hema Sampath, Senior Counsel for  
Mr.A.Srinivasan for R2  
Mr.C.D.Prakash for R3 and 4  
Mr.K.Govindarajan for R5

#### ORDER

This appeal arises out of the order passed by the Principal District Judge, Karur in I.A.No.318 of 2012 in O.S.No.49 of 2012.

2.The 1<sup>st</sup> respondent filed a suit against the appellant and the respondents 2 to 5 before the District Court, Karur in O.S.No.49 of 2012 for partition and separate possession. It seems that the plaintiff filed an application in I.A.No.318 of 2012 under Order 39 Rule 1 and 2 CPC along with the suit praying for grant of temporary injunction, restraining the respondents, their men, agents, servants, subordinates or any one from making any kind of encumbrances and raising new constructions or altering the physical features over the suit properties or from operating or withdrawing any amount from E Schedule property till the disposal of the suit. The learned District Judge has allowed the application on 24.03.2016.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard Mr.G.R.Swaminathan, learned counsel appearing for the petitioner, Mrs.Hema Sampath, learned Senior counsel appearing for



the 1<sup>st</sup> respondent, Mr.A.Srinivasan, learned counsel appearing for the 2<sup>nd</sup> respondent, Mr.C.D.Prakash, learned counsel appearing for the respondents 3 and 4 and Mr.K.Govindarajan, learned counsel appearing for the 5<sup>th</sup> respondent.

4.It is seen from the records that the injunction petition which had been filed with the prayer stated above on 10.12.2012, came to be allowed only on 24.03.2016 and in the meanwhile, the defendants have filed their written statement and issues were also framed and the suit is posted for trial. The appellant and the respondents 2 to 5 have filed separate affidavits of undertaking before this court to the effect that they will not encumber or alienate the suit properties, pending disposal of the suit.

5.Taking into consideration the facts of the case and the undertaking affidavit filed by the parties, the defendants are directed not to encumber or alienate the suit schedule properties till the disposal of the suit. The order impugned in this appeal is set aside. The Trial Court shall dispose of the suit in O.S.No.49 of 2012, as expeditiously as possible preferably on or before 31.10.2016. The Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, connected M.P.is closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar(CS)

To  
The Principal District Judge, Karur.

+1cc to Mr.R.Murali, Advocate in SR.37859  
+1cc to Mr.V.Balaji, Advocate in SR.37639

C.M.A. (MD) No.647 of 2016  
19.07.2016

nbj  
PBK/NGM-MP/SAR-III 29.07.2016 ::2P-4C:(IT)