

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2017

Coram:

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.2824 of 2017 &
C.M.P.No.16132 of 2017

1.M.D.Lakishmipathi Naidu
2.M.Bharathi
3.M.Srividhya
4.Minor M.Vamsi Choudhry
Rep. by father Guardianship
M.D.Lakshmipathi Naidu

..Appellants/Respondent/
defendants

v.

M.D.Jagapathy Naidu

..Respondent/Petitioner/
Plaintiff

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of
CPC against the order of I.A.No.402 of 2017 in O.S.No.73 of
2015 on the file of the District Court II, Kanchipuram.

For Appellants : Ms. K.Jamuna

For Respondent : Mr.S.Kamadevan

J U D G M E N T

Challenging the fair and final order passed in I.A.No.402
of 2017 in O.S.No.73 of 2015 on the file of the District Court
II, Kanchipuram, the defendants have filed the above appeal.

2. The plaintiff filed the suit in O.S.No.73 of 2015 for
partition and for other reliefs. In the said suit, the
plaintiff also filed an application in I.A.No.402 of 2017 under
Order 39, Rule 1 and 2 of CPC seeking for an order of
injunction restraining the defendants from alienating the plaint
'C' schedule property till the disposal of the suit. The
defendants filed their counter and opposed the application. The
Trial Court, taking into consideration the case of both the
parties, granted an order of injunction restraining the
defendants from alienating half share of the 'C' schedule
property till the disposal of the suit.

3. Aggrieved over the order passed by the Trial Court, the defendants have filed the above appeal.

4. When the matter is taken up for hearing, Ms. K.Jamuna, learned counsel appearing for the appellants, submitted that the defendants have no intention to alienate the property till the disposal of the suit.

5. Since the learned counsel appearing for the appellants submitted that the defendants have no intention to alienate the property, I do not find any reason to interfere with the order passed by the Trial Court in I.A.No.402 of 2017 in O.S.No.73 of 2015.

6. Mr.S.Kamadevan, learned counsel appearing for the respondent submitted that time limit may be fixed to the Trial Court for the disposal of the suit.

7. In that view of the matter, the learned counsel appearing for the appellants submitted that the Trial Court may be directed to dispose of the suit in two months' time.

8. In these circumstances, the order passed in I.A.No.402 of 2017 in O.S.No.73 of 2015 is confirmed. The District Judge II, Kanchipuram, is directed to dispose of the suit in O.S.No.73 of 2015 on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. It is also made clear that both, plaintiff as well as the defendants, should co-operate for the disposal of the suit within the time stipulated by this court.

With these observations, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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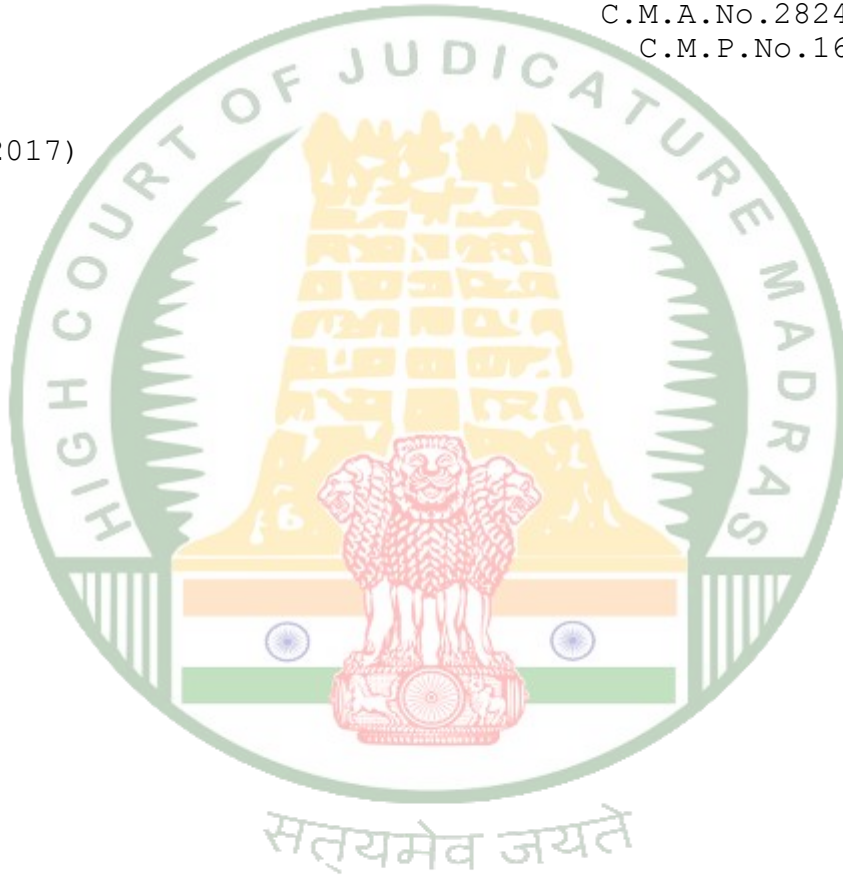
To

The District Court II,
Kanchipuram.

+ 1 cc to Mrs. K. Jamuna, Advocate SR.75990
+ 1 cc to Mr.S. Kamadevan, Advocate SR.75582

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SJ(CO)
EU(30/10/2017)



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