

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2017

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.Nos.374 to 377 of 2017 and
CMP.No.2608 of 2017 in CMA.No.374/2017

1. P.Kalaiselvi
2. Minor P.Rithuvarnikha Appellants in all CMAs.
(2nd appellant minor represented by her
Guardian & Mother P.Kalaiselvi)

/vs/

1. R.Prabhu
2. P.Ramasamy
3. R.Arukkani
4. The Sub Registrar,
Udumalai Taluk,
Tiruppur District. Respondents in all CMAs.

Civil Miscellaneous Appeals filed under Order 43 Rule 1 (r) CPC against the orders and decreetal orders dated 20.01.2016 (Received on 17.02.2016) made in I.A.Nos.90 of 2015, 89 of 2015, 894/2015 and 895/2015 respectively in O.S.No.10 of 2015 on the file of the Court of the I Additional District Judge, Tiruppur.

For Appellants Mr.N.Manokaran
in all CMAs. for M/s.D.Gopal

For Respondents Mr.V.Raghavachari
1 to 3 in all CMAs.

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C O M M O N J U D G M E N T

The plaintiffs/appellants have come up with the above four Civil Miscellaneous Appeals aggrieved by a Common Order passed on 20.01.2016 in I.A.Nos.90/2015, 89/2015, 894/2015 and 895/2015 respectively in O.S.No.10 of 2015 by the learned I Additional District Judge, Tiruppur.

2. The I.A.No.89/2015 is filed seeking ad interim injunction against the defendants 1 to 3 not to alienate or encumber the suit properties pending disposal of the suit. The I.A.No.90/2015 is filed seeking interim injunction against the 4th respondent not to register any document executed by the

defendants 1 to 3 with respect to the plaintiffs' share in the schedule mentioned properties and the I.A.No.894/2015 is filed seeking interim injunction restraining the defendants 1 to 3 from disturbing the peaceful possession and enjoyment of the plaintiff in the suit schedule properties and I.A.No.895/2015 is filed under Order 40 Rule 1 of CPC for appointment of a Receiver to administer the properties pending disposal of the suit.

3. After severe contest, a common order dated 20.01.2016 has been passed negating all the claims. In the meanwhile, the plaintiffs also had filed a Tr.C.M.P.No.200/2016 before this Court in which an order has been passed transferring the suit from the file of the I Additional District Judge, Tirupur, to the file of the Principal District Judge, Tirupur and there also, the allegations were that at the time, while considering the above Interlocutory Applications, the trial judge had considered the entire merits of the matter and arrived at a clear finding against the plaintiffs/appellants.

4. Now, the learned Counsel for the appellants urged that even as found by this Court in Tr.C.M.P.No.200/2016, the learned Judge has considered the matter on merits and arrived at a finding which would be prejudicial to the appellants while trying the suit. Even though, the suit has been now transferred to another court, namely, Principal District Judge, Tirupur, the learned Counsel for the appellants expressed his apprehension.

5. Per contra, the learned Counsel for the respondents 1 to 3 contended that he would undertake not to alienate any of the property pending disposal of the suit. The said undertaking is recorded.

6. By virtue of the said undertaking, no relief claimed under I.A.No.90/2015 could be granted. So far as I.A.No.894/2015 is concerned, it is with respect to the possession of the parties. Though it is stated that originally, a status quo order was granted in favour of the plaintiffs, the same was also vacated on 20.01.2016. The plaintiffs have been managing the properties without an order of injunction till today.

7. In the above conspectus of the case, this Court is inclined not to go into the merits of the case, at the same time, vacate the findings given in the order dated 20.01.2016 which is claimed to be prejudicial to the interest of the plaintiffs.

8. The learned Principal District Judge, Tirupur, is directed to expedite the trial by framing issues and taking evidence and dispose of the suit in O.S.No.10/2015 at the earliest, however, not beyond 31.12.2017.

9. In view of the above direction given, I.A.No.895/2015 which is filed under Order 40 Rule 1 CPC for appointment of a receiver is closed for the present.

10. With the above direction, the Civil Miscellaneous Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Principal District Judge, Tiruppur.

2.I Additional District Judge, Tiruppur.

3.The Sub Registrar, Udumalai Taluk, Tiruppur.

+1 cc to Mr.V.Raghavachari,advocate,sr.15544.

+4 cc's to Mr.D.Gopal, Advocate,sr.15603 to 15606.

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krd 27/3

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