

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.06.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No. 1443 of 2011
and M.P.No.1 of 2011

T.Nagendran

...Petitioner

Vs

1.M.R.Devendran

2.T.Rangachari

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 14.03.2011 in I.A.No.31 of 2011 in O.S.No.279 of 2010 on the file of the Principal Sub Court, Salem.

For Petitioner : Mr.R.Subramanian
For Respondents : Mr.T.S.Vijayaraghavan

ORDER

This civil revision petition is directed against the order dated 14 March 2011 in I.A.No.31 of 2011, whereby and where under, direction was issued by the trial Court to send the compensation amount from the account of LAOP No.12 of 1994 on the file of the I Additional Subordinate Court, Salem to the account of the Civil Suit in O.S.No.279 of 2010.

2. The learned counsel for the petitioner contended that the learned

trial Judge virtually decided the suit by making observations with regard to the rights of the parties to apportion the amount in LAOP No.12 of 1994. According to the learned counsel, the petitioner has no intention of withdrawing the money from the account in LAOP No.12 of 1994 and as such, the trial Court was not correct in directing transfer of the amount to the credit of the Civil Suit.

3. The learned counsel for the respondents while justifying the order passed by the trial Judge contended that the intention in moving the application was only to preserve the amount till the disposal of the Civil Suit.

4. There is no dispute that the suit in O.S.No.279 of 2010 is pending before the Principal Subordinate Judge, Salem, for partition. The amount awarded in LAOP No.12 of 1994 on the file of the I Additional Subordinate Court, Salem is also an item of property to be divided among the parties. The application in I.A.No.31 of 2011 was filed by the respondents with a prayer to send for the amount and credit the same in O.S.No.279 of 2010. The learned trial Judge appears to have made certain observations with regard to the claim of the parties, even before considering the merits of the suit claim.

5. After hearing the learned counsel for the parties, I am of the view that interest of justice would be subserved by directing the learned I Additional Subordinate Judge, Salem not to permit the parties to withdraw

the amount in LAOP No.12 of 2014 till the disposal of the Civil Suit in O.S.No.279 of 2010. In short, none of the parties are entitled to withdraw the amount in O.S.No.279 of 2010 till the disposal of the suit for partition.

6. I also make it clear that the observations made by the learned trial Judge in the order dated 14 March 2011 in I.A.No.31 of 2011 were made only for the purpose of deciding the interlocutory application and the same will not weigh while deciding the merits of the claim made in O.S.No.279 of 2010. The order passed by the learned Principal Subordinate Judge, Salem in I.A.No.31 of 2011 is modified to the above extent.

7. The suit in O.S.No.279 of 2010 is ripe for trial. The learned Principal Subordinate Judge, Salem is directed to dispose of the Civil Suit as expeditiously as possible and in any case, within a period of six months from the date of receipt of a copy of this order.

8. The civil revision petition is disposed of with the above modification. No costs. Consequently, connected miscellaneous petition is closed.

09.06.2017

gms

To

The Principal Sub Court, Salem.

K.K.SASIDHARAN,J.

gms

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