

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09..01..2017

CORAM

THE HONOURABLE MR. JUSTICE S.NAGAMUTHU

and

THE HONOURABLE MR. JUSTICE N.AUTHINATHAN

Original Side Appeal No.44 of 2013
and M.P.No.1 of 2013

R.Sankarappan

... Appellant

-Versus-

1.C.M.Ibrahim
Managing Partner,
Express Construction Company,
78/829, Anna Salai,
Chennai 600 002.

2.Mrs.M.S.Gnanasoundari

... Respondents

Original Side Appeal under Order 36, Rule 1 of
Original Side Rules r/w Clause 15 of Letters Patent, praying
to set aside the order and decretal order dated 07.12.2012
made in O.P.No.489 of 2012 in C.S.No.384 of 2012.

For Appellant : Mr.B.K.Sreenivasan

For Respondents: Mr.G.Ramachandran for R1 & R2

JUDGMENT

(Judgement of the Court was delivered by **S.NAGAMUTHU. J.**)

The appellant is the plaintiff in C.S.No.384 of 2012. He filed the said suit for recovery of a sum of Rs.41,57,800/- from the defendants with interest. The said suit is pending trial. While so, the appellant/plaintiff filed an application in O.A.No.484 of 2012 seeking an interim order of injunction restraining the 1st defendant from demolishing the suit structure and thereby interfering with the peaceful possession and enjoyment of the suit B-Schedule property which is under his occupation till the disposal of the suit. The learned single Judge by order dated 07.12.2012 dismissed the said original application. Challenging the same, the plaintiff is before this court with the present appeal.

2. We have heard the learned counsel for the appellant and the learned counsel for the respondents and we have also perused the records carefully.

3. The learned single Judge has dismissed the application mainly on the ground that the suit is for only recovery of money and there is no prayer for any permanent injunction. The learned single Judge has rightly quoted Order 39 and Rules and 2 of CPC and has dismissed the application. When the suit is a simple one

for money claim, injunction in respect of an immovable property cannot be granted as it is rightly held by the learned Judge. The learned single Judge was thus right in dismissing the application.

4. In the result, the original side appeal is dismissed. Considering the facts and circumstances of the case, both parties shall bear their own costs. Consequently, connected MP is closed.

(S.N., J.) (N.A.N. J.)
09..01..2017

kmk

S.NAGAMUTHU.J.,
AND
N.AUTHINATHAN.J.,

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O.S.A.No.44 of 2013

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