



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2017

CORAM

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THE HONOURABLE **MRS.JUSTICE J.NISHA BANU**

C.M.A(MD)No.564 of 2017

and

C.M.P. (MD)No.6032 of 2017

Arulanthu

... Appellant / Respondent /
Respondent / Plaintiff

Vs.

Maruthamalai

... Respondent / Petitioner /
Appellant / 2nd Defendant

PRAYER:- Civil Miscellaneous Appeal filed Under order 43 Rule 1 (C) Code of Civil Procedure, against the order and decretal order dated 26.05.2017, rendered in I.A.No.2 of 2017 in C.M.A.No.1 of 2017 on the file of the learned Vacation Civil Judge, Pudukkottai now pending in C.M.A.No.10 of 2017 on the file of the learned Subordinate Court, Pudukkottai.

For Appellant : Mr.R.P.Ramachanthiran

For Caveator : Mr.D.Parisuthananthan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/plaintiff against the fair and decretal order dated 26.05.2017, made in I.A.No.2 of 2017 in C.M.A.No.1 of 2017 by the learned Vacation Civil Judge, Pudukkottai now pending in C.M.A.No.10 of 2017 on the file of the learned Subordinate Court, Pudukkottai.

2.Heard the learned counsel for the appellant as well as the learned counsel for the respondent.

3.The appellant has filed this appeal challenging the interim injunction granted by the Lower Court in favour of the respondent/defendant stating that under Order 39 Rule 1 (a) of



Civil Procedure Code, the respondent is not entitled to get an interim injunction.

4. Heard the learned counsel for the appellant and the learned counsel for the respondent.

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5. The learned counsel for the respondent/defendant would draw the attention of this Court to Ex.P.11, where the defendant has given a complaint to the Police that the crops were damaged and a receipt has also been given to that effect and though the defendant would submit that the learned Judge had rightly granted injunction, Order 39 Rule 1(a) clearly indicates on what circumstances interim order can be granted and it is useful to extract Order 39 Rule 1(a), which reads as follows:-

"any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, then the Court can interfere."

6. As rightly pointed out by the learned counsel for the respondent/defendant, a complaint has been given by the respondent/defendant that the crops were damaged and therefore, the learned Judge has rightly granted the interim order and therefore, I do not find any infirmity in the order passed by the learned Judge.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed. However, without adverting into the merits of the case, to meet the ends of justice, this Court directs the lower Court to complete the trial, as expeditiously as possible.

Sd/-

Assistant Registrar(RTI)

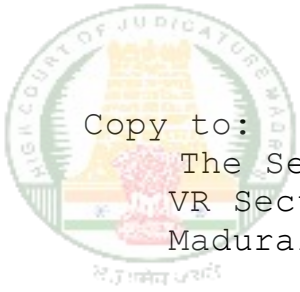
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Sub Assistant Registrar

To,

1. The Additional District Judge/Presiding Officer,
Special Court for E.C & NDPS Act cases/Vacation Civil Judge,
Pudukkottai.

<https://hccourtsonline.servecorp.in/>
2. The Subordinate Judge,
Pudukkottai.



Copy to:
The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.R.P.Ramachandiran , Advocate in SR.No. 71740
+1 cc to Mr.D.Parisuthanathan, Advocate in SR.No.72158

raj2/rmk
AE/KP/SAR1/15.09.2017/3P/6C

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