

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2018

Coram

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.M.A.No.878 of 2016

1.Visalakshi
2.Chitravathi

.... Appellants

v.

Venkateswaran

... Respondent

Civil Miscellaneous Appeal filed under Order 43 Rule 1(r) of Civil Procedure Code against the fair and decretal order dated 30.11.2015 made in I.A.No.550 of 2015 in O.S.No.180 of 2015 on the file of I Additional District Court, Erode.

For Appellants : Mr.N.Manokaran

For Respondent : Mr.K.R.Nishanth
for Mr. V.P.SengottuvelJ U D G M E N T

Challenging the fair and final order passed in I.A.No.550 of 2015 in O.S.No.180 of 2015 on the file of I Additional District Court, Erode, the plaintiffs have filed the above Civil Miscellaneous Appeal.

2. The plaintiffs filed the suit in O.S.No.180 of 2015 for

declaration, permanent injunction and for other reliefs.

3. In the said suit, the plaintiffs have also filed an application in I.A.No.550 of 2015 under Order 39, Rule 1 and 2 of CPC seeking for an order of interim injunction restraining the 4th defendant from putting up any construction in item No.9 of the suit property till the disposal of the suit. The said application was contested by the defendants and the trial Court, after taking into consideration the case of both the parties, dismissed the application.

4. Aggrieved over the order passed by the trial Court, the plaintiffs have filed the above appeal.

5. When the matter came up for hearing on 25.04.2016, this Court, considering the facts and circumstances of the case, passed an order observing that the interim relief sought for cannot be granted and also directed the trial Court to proceed further with O.S.No.180 of 2015 and also directed the trial Court not to adjourn the matter beyond three working days at any point of time. This court also directed the trial Court to dispose of the suit without being influenced by any of

the observations made in I.A.No.550 of 2015.

6. Since this Court had already observed that the interim injunction sought for by the plaintiffs cannot be granted, I am also of the view that the said observation cannot be interfered with at this stage. Further, the plaintiffs have not made out a case before the trial Court for the grant of interim injunction. The trial Court had rightly dismissed the application.

7. In these circumstances, I do not find any ground to interfere with the order passed by the trial Court. The Civil Miscellaneous Appeal is liable to be dismissed. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs.

25.01.2018

Index: Yes/No

Speaking order/Non Speaking order

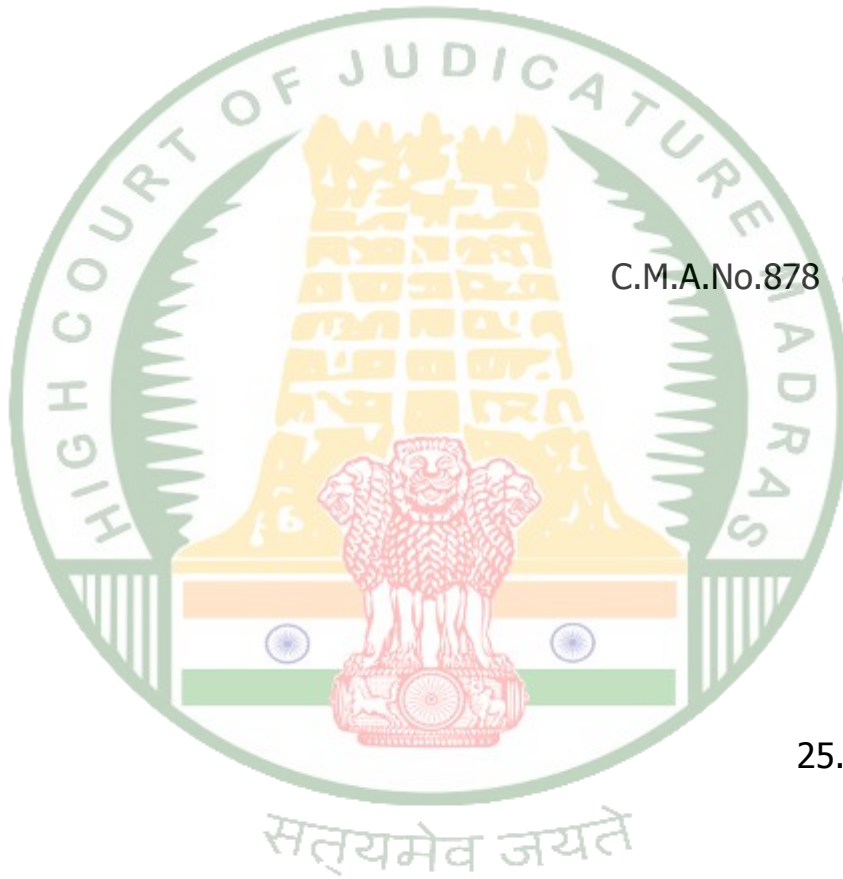
Rj

To

The I Additional District Court
Erode.

M.DURAISWAMY, J.

Rj



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