

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.01.2018

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

O.S.A.No.338 of 2017
and
C.M.P.Nos.21788 & 21789 of 2017

P.Durai ... Appellant

Vs.

1.T.M.Oosman Hajee & Co
Rep. By its partner
respondent 2 &3
T.M.Kunchalumma (died)

2.Faizal Mohammed

3.A.R.Imthiaz Ahamed

4.Khemka Galleria

5.Mr.Noushad T.M.

6.Mrs.T.M.Nazeema

7.Mr.Noor Mohammed T.M. ... Respondents

Appeal filed under Order XXXVI Rule 9 of the O.S.Rules and Clause 15 of the Letters Patent Act, to set aside the order passed by this court dated 29.11.2017 made in OA.No.438 of 2017 & A.No.3608 of 2017 in C.S.No.320 of 2017.

OA.438 of 2017:To grant an interim injunction restraining the respondents, their agents, assigns, agents, representative servants men or other person claiming through or under them from in any manner interfering with the peaceful possession and enjoyment of the schedule mentioned property pending disposal of the suit.

A.3608 of 2017:

Praying that this Court pleased to vacate the order of injunction granted on 24/04/2017 in O.A.no.438/2017 in CS.No.320/2017

For Appellant : Mr.M.A.Gouthaman
For Respondent : MR.V.Anil kumar for Chirag Guta.

JUDGMENT

(Judgment of the Court was delivered by RAJIV SHAKDER, J)

1. After some arguments, learned counsel for the appellant says that he wishes to withdraw the appeal.

2. The learned counsel's only concern is that the observations made in paragraph No.25 of the impugned judgment and order should not come in the way, when the suit is finally adjudicated, on merits.

3. To our minds, the observations are only prima facie in nature. The observations were, in our opinion, made to test whether or not the appellant had a prima facie case for grant of ad-interim injunction. Therefore, this concern of the appellant, in our opinion, is not tenable.

3.1. In any event, we make it clear that the observations made in paragraph 25 of the impugned judgment and order will not come in the way, at the stage when the suit is finally decided on merits.

4. The appeal is dismissed as withdrawn with the aforesaid observations. Consequently, connected pending applications shall stand closed. There shall, however, be no order as to costs.

Sd/-

Assistant Registrar(CS-iii)

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Sub Assistant Registrar

vsm

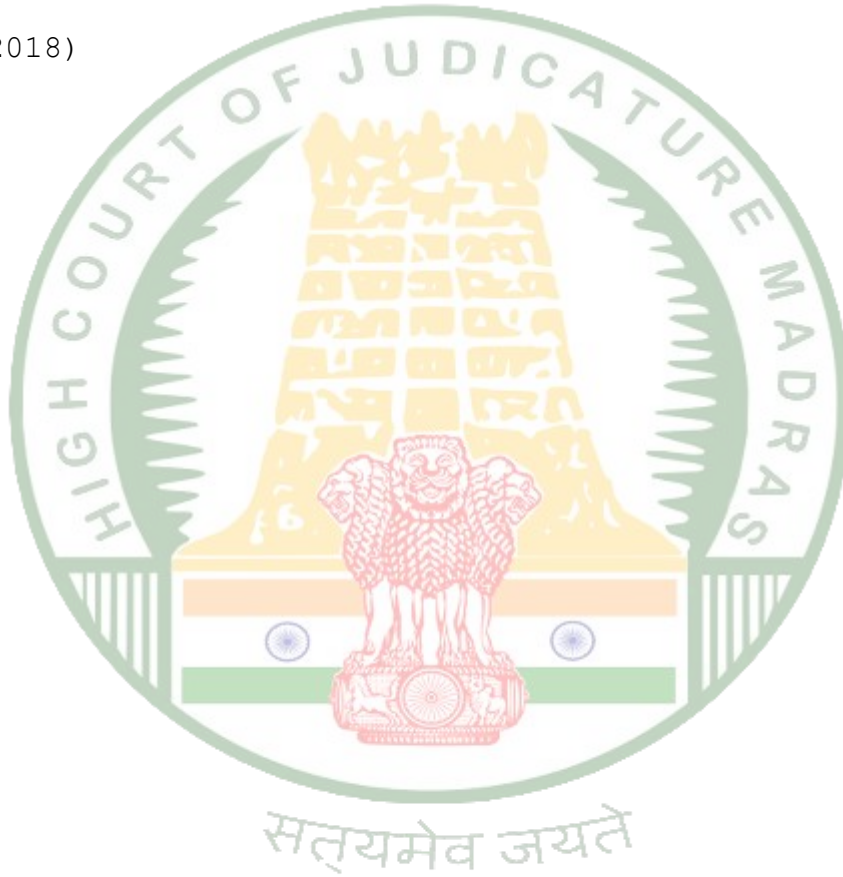
To

The Sub Assistant Registrar,
Original Side, High Court,
Madras.

+1cc to Mr.P.S.AMALRAJ, Advocate, S.R.No. 1539
+1cc to Mr.S.R.RAGHUNATHAN, Advocate, S.R.No. 991

O.S.A.No.338 of 2017

ER(CO)
TR(30/01/2018)



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