

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice N.ANAND VENKATESH

O.S.A.No.197 of 2018
and
C.M.P.No.10011 of 2018

Chinthadripet Fish and Perishable
Products Traders Society
rep. by its President

Appellant

Vs

1.C.R.Kasturi
2.Sarayou Basanth
3.B.Saaru Rupa
4.B.Hema Rupa
5.J.M.H.Imran Khan

Respondents

Appeal preferred under Order XXXVI Rule 1 of O.S. Rules r/w
Clause 15 of Letters Patent against the order and decree dated
06.06.2018 made in O.A.No.513 of 2017 in C.S.No.374 of 2017.

For Appellant ... Mr.AR.L.Sundaresan,
Sr. Counsel for Mr.Sriram
M/s.A.S.Kailasam and Associates

For Respondent ... Mr.S.R.Raghunathan for
Mr.P.S.Amalraj for R5/Caveator

JUDGMENT

(Judgment of the Court was delivered by N.ANAND VENKATESH, J.)

This appeal has been filed against the order passed in
O.A.No.513 of 2017 wherein the appellant had sought for
permanent injunction restraining the defendants from interfering
with their possession and enjoyment of the property. The
appellant has filed a suit for the relief of specific
performance and for injunction.

2.It is the case of the appellant that they were paying the

rents and other charges to respondents 1 to 4 and respondents 1 to 4 have subsequently sold the property in favour of the fifth respondent. It is the further contention of the learned senior counsel appearing for the appellant that the fifth respondent does not have any title over the property since the appellant has the right of preemption under the agreement dated 06.05.1990, which is the subject matter in the suit.

3.The learned single Judge, after considering the entire facts and circumstances, has given a categorical finding that the fifth respondent has become the owner of the property by virtue of the sale made by respondents 1 to 4. The fifth respondent has also given an undertaking before the Court that he will not interfere with the possession and enjoyment of the 19 named tenants by way of filing an affidavit before the Court. The learned single Judge has taken note of the undertaking given by the fifth respondent and in order to balance the rights, the learned single Judge has directed the appellant to pay the rents to the fifth respondent and also recorded the undertaking given by the fifth respondent that he will not interfere with the possession and enjoyment of the property unless otherwise by due process of law.

4.We do not find any ground to interfere with the order of the learned single Judge since the possession of the appellant has been safeguarded. Mere payment of rent to the fifth respondent will not tantamount to recognising the right and title of the fifth respondent in the suit property. This is purely an interim arrangement that has been made pending disposal of the suit. We also make it clear that any observations that have been made by the learned single Judge or in this order will not stand in the way of the parties to agitate the case on merits.

5.In view of the same, this Original Side Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

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Sub Assistant Registrar

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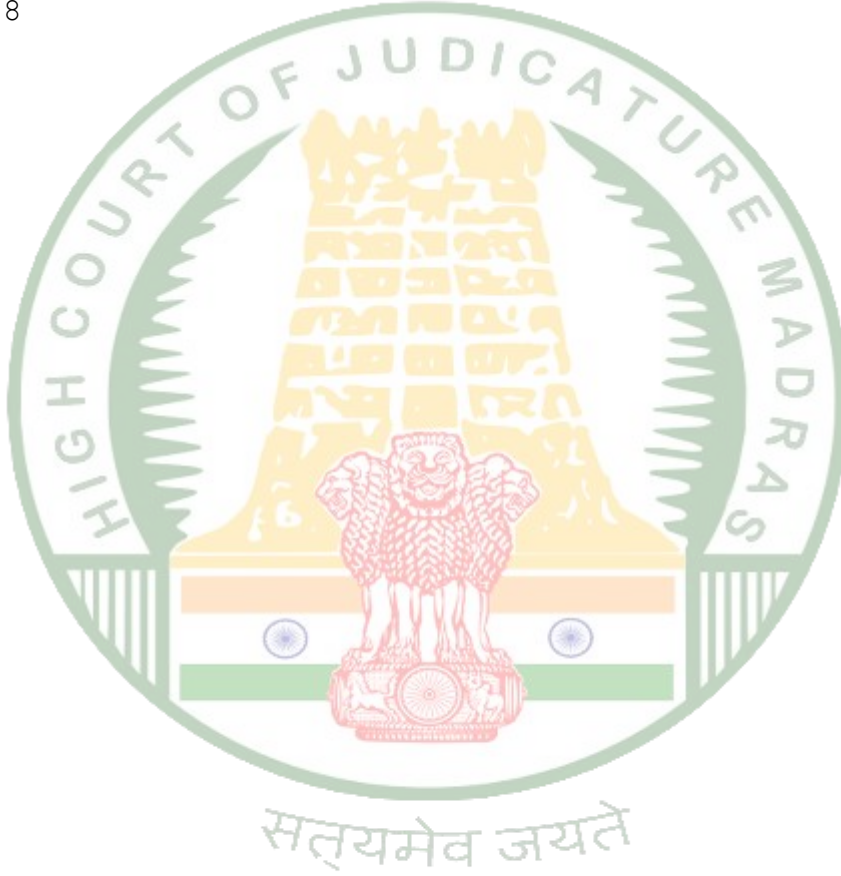
The Sub Assistant Registrar,
Original Side, High Court, Madras.

+1cc to Mr.P.S.Amalraj, Advocate, S.R.No.37051

+4ccs to M/s.A.S.Kailasam & Associates, S.R.No.36872 & 36873

O.S.A.No.197 of 2018

pvs (CO)
cs/26/06/18



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