



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Sixteenth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN

CMP(MD) No.3710 of 2018

IN

AS(MD) No.62 of 2018

MYMOONATHUL BASARIYA

... PETITIONER/APPELLANT

Vs

SAM. JEBASINGH

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an order of Ad-Interim Injunction restraining the respondents from in any manner altering or changing the nature of the suit property which is subject matter in O.S.No.115 of 2016 on the file of Principal District Court, Tirunelveli, either by putting up construction or by alienating or encumbering the same pending disposal of the above First Appeal and thus render justice.

Prayer in AS(MD). 62/ 2018 :

To set aside the judgment and decree dated 02.11.2017 made in O.S.No.115 of 2016 on the file of Principal District Court, Tirunelveli, by allowing the First Appeal and decree the suit with cost and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.ARUMUGAM, Advocate for MR.AJMAL ASSOCIATES, Advocate for the petitioner and of Mr.H.ARUMUGAM, Advocate for the Respondents the court made the following order:-

Admittedly, the plaintiff's suit for declaration and recovery of possession has been dismissed, despite the defendant having remained exparte. The plaintiff, who is the appellant herein, seeks an order of injunction restraining the respondent from putting up any construction over the suit property. The suit is one for recovery of possession, if the plaintiff succeeds in the suit, he would be entitled to take possession of the property along with any construction that is made pending the appeal. Therefore, I see no reason to continue the interim order, which was granted on 23.04.2018. It is made clear that any construction put up will be subject to the result of the appeal and the respondent / defendant



cannot claim equity or sympathy.

2. For the foregoing reasons, the application is dismissed. The interim order granted by this Court on 23.04.2018 is vacated.

sd/-

16/11/2018

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/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PRINCIPAL DISTRICT JUDGE,
TIRUNELVELI.

+1. C.C. To Mr.A.ARUMUGAM, Advocate for Mr.AJMAL ASSOCIATES
Advocate SR.No.21700

PS/VR-MMS/SAR-4/27/11/2018/2P/3C

ORDER
IN
CMP (MD) No.3710 of 2018
IN
AS (MD) No.62 of 2018
Date :16/11/2018