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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM

THE HONOURABLE MR. JUSTICE **G.R.SWAMINATHAN**

C.R.P(MD) (PD) .No.1327 of 2018

and

C.M.P(MD) .No.5662 of 2018

Raj Mohamed

... Petitioner/Appellant/
Respondent/Defendant

vs.

Rajathi @ Rokkaiah

... Respondent/Respondent/
Petitioner/Plaintiff

PRAYER: Petition filed under Article 227 of the Constitution of India, to allow the civil revision petition and set aside the fair order and decretal order dated 24.07.2017 made in C.M.A.No.5 of 2017 on the file of the Principal District Judge, Tiruchirappalli, confirming the fair and decretal order dated 27.02.2017 made in I.A.No.871 of 2016 in O.S.No.1018 of 2016 on the file of II Additional Subordinate Judge, Tiruchirappalli.

For Petitioner : Mr.A.Arumugam
for Ajmal Associates

For Respondent : Mr.K.Govindarajan

O R D E R

The respondent herein filed O.S.No.1018 of 2016 on the file of the Principal Subordinate Court, Tiruchirappalli, seeking the relief of permanent injunction. The defendant in the said suit is none other than her own brother. In the said suit, she filed IA.No.871 of 2015 seeking temporary injunction. The said interlocutory application was allowed. Questioning the same, the revision petitioner herein filed CMA.No.5 of 2017 before the learned Principal District Judge, Tiruchirappalli and the same was dismissed. Challenging the said orders, this Civil Revision Petition has been filed.



2. Heard the learned counsel on either side and perused the materials placed before this Court.

3. One subsequent development will have to be taken note of. The respondent's claim is that even when the interim order in her favour was in operation, there was commission of trespass by the revision petitioner herein which necessitated her to file I.A.No.259 of 2018 for amending the plaint for incorporating the relief of mandatory injunction.

4. The learned counsel appearing for the respondent/ plaintiff gives an undertaking on instruction from his client that the respondent would not institute any action for disobedience of the interim/temporary order granted in her favour by the Court below. This undertaking is recorded.

5. This Court makes it clear that non interference with the orders passed by the Court below in this civil revision petition will not amount to an affirmation of the orders passed by the Court below. In other words, no finding is given by this Court in favour of the respondent herein, since the issues between the parties will have to be necessarily thrashed out only in the main suit.

6. In order to avoid multiplicity of proceedings, this Court directed the learned trial Judge to allow I.A.No.259 of 2018 filed by the respondent for amending the plaint. The suit itself shall be disposed of on merits in accordance with law, within a period of six months from the date of receipt of a copy of this order.

7. Since the respondent has been given permission to amend her plaint, the revision petitioner is at liberty to file additional written statement raising all possible defences open to him.

8. This Civil Revision Petition is disposed of with the above directions and it is reiterated that the suit shall be disposed of entirely uninfluenced by the outcome of this civil revision petition. No costs. Consequently, connected C.M.P(MD).No.5662 of 2018 is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-I)



To

WEB COPY

1.The Principal District Judge, Tiruchirappalli.

2.The II Additional Subordinate Judge, Tiruchirappalli.

+1 CC To MR.AJMAL ASSOCIATES, Advocate SR. NO.88952

+1 CC To MR.K.GOVINDARAJAN, Advocate SR. NO. 88805

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RMK

TR/PM/SAR-I (31.10.2018) 3P 5C