



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2018

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

WEB COPY

C.M.A(MD).No.502 of 2018
and
C.M.P.(MD).No.5959 of 2018

K.Krishnasamy

... Appellant/
Respondent / Respondent

Vs.

Dhanalakshmi,
rep. by her Power Agent
Mr.J.D.Daniel

... Respondent /
Appellant / Petitioner

PRAYER:- Appeal filed under Order 43 Rule 1(r) of Civil Procedure Code, against the order dated 28.04.2018 passed in I.A.No.316 of 2018 in A.S.No.45 of 2018 by the learned II-Additional Subordinate Judge, Tiruchirappalli.

For appellant : Mr.N.Mohan

For respondent : Mr.T.Vadivelan

JUDGMENT

Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent.

2.The respondent / plaintiff has filed the suit in O.S.No.187 of 2012 for permanent injunction and obtained an interim order in I.A.No.124 of 2012. After trial, the Trial Court has dismissed the suit, against which the respondent / plaintiff has filed an appeal in A.S.No.45 of 2018 before the first appellate Court along with I.A.No.316 of 2018 for interim injunction. Considering the fact that the respondent / plaintiff has enjoyed the interim relief till the disposal of the suit, the first appellate Court has granted an interim order of injunction till the disposal of the first appeal. Aggrieved by that order, the appellant / defendant has filed this appeal.

3. The learned counsel for the appellant / defendant would submit that the respondent herein claimed title only through a service connection created by one Daniel and the same was rejected by the trial Court by assigning valid reasons, but the lower



appellate Court, without considering the same, has erroneously granted an interim order of injunction till the disposal of the first appeal. Thus, he prayed to set aside the interim order granted by the trial Court.

4. The ground urged by the the appellant / defendant cannot be decided now and it can be decided only in the appeal. It is not in dispute that till the disposal of the suit, the respondent / plaintiff had enjoyed the relief of interim order. The first appellate Court, considering the said fact, has granted an order interim injunction in favour of the respondent / plaintiff. This Court does not find any reason to interfere with the same.

5. At this juncture, the learned counsel for appellant / defendant would submit that since the interim granted in favour of the respondent / plaintiff, there is a chance for the respondent / plaintiff to drag on the proceedings and therefore, he requested this Court to direct the first appellate Court to dispose of the first appeal within a stipulated time.

6. In view of the above submission of the learned counsel for the appellant, the first appellate Court is directed to dispose of the appeal within a period of four months from the date of receipt of a copy of this judgment.

7. This Civil Miscellaneous Appeal stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(Crl Side)

/True copy/

Sub Assistant Registrar

To

The II-Additional Subordinate Judge
Tiruchirapalli.

Copy to:

The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. **(2 COPIES)**

+1cc to Mr.N.MOHAN, Advocate, SR.No. 71672

+1cc to Mr.T.VADIVELAN, Advocate, SR.No.72039

C.M.A (MD) .No.502 of 2018
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GCG