



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.08.2017

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A(MD)No. 694 of 2018

and C.M.P.(MD)No.8018 of 2018

WEB COPY

Asha Ravindran ... Appellant/Respondent/Defendant
Vs.

M/s.King of Kings Plantations Private Limited,
Kodaikanal through its Power of Attorney

R.Venkatachalam ... Respondent/Petitioner/Plaintiff

PRAYER:- Civil Miscellaneous Appeal filed under Order 43 Rule 1(c) of C.P.C against the fair and decreetal order passed in I.A.No.59 of 2018 in O.S.No.109 of 2017 on the file of the Additional District Judge, Palani, dated 28.04.2018.

For Appellant : M/s.S. Jeniffer
for Mr.R.Shankar Ganesh

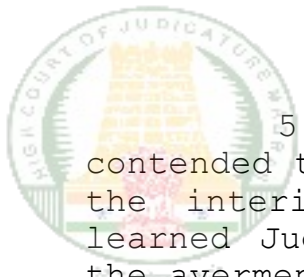
J U D G M E N T

The appellant is the defendant in O.S.No.109 of 2017 on the file of the Additional District Judge, Palani. The respondent filed the said suit for declaration of title, permanent injunction and to declare the sale deed dated 25.07.2007 registered as Document No.1865/2007 on the file of the Sub Registrar Office, Kodaikanal as null and void. Along with the plaint, the respondent also filed I.A.No.59 of 2018 under Order 39 Rules 1, 2 of C.P.C for temporary injunction restraining the appellant from in any manner interfering with the peaceful possession and enjoyment of the suit property.

2. The appellant contested the suit by filing written statement. The appellant filed a counter affidavit in I.A.No.59 of 2018. According to the respondent, the respondent company purchased the property by registered sale deed and the respondent is in possession of the suit property. On the other hand, the appellant contended that she purchased the property from the original owner for valuable consideration.

3. Before the learned Judge, the respondent filed 26 documents and the same were marked as Ex.P.1 to Ex.P.26. The appellant did not file any document to prove her possession.

4. The learned Judge, considering the averments in the affidavit, counter affidavit and documents filed by the respondent and the arguments advanced on behalf of the parties, granted temporary injunction pending suit, holding that the respondent has made out *prima facie* case and balance of convenience is in favour of the respondent. The present appeal is filed challenging the said order.



5. The learned counsel appearing for the appellant contended that the respondent has prayed for permanent injunction in the interim application and the same is not maintainable. The learned Judge failed to consider that there are contradictions in the averments of the plaint and the documents filed and relied on by the respondent. The contradictions show that the respondent has fabricated the documents and therefore, the respondent is not entitled for any injunction. The appellant purchased the Property from the original owner and from the date of purchase, the appellant is in possession and enjoyment of the suit property.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. From the materials on record, it is seen that the respondent along with the suit prayed for injunction pending suit. The respondent has marked and filed 26 documents to substantiate their case and the appellant claims to have purchased the suit property and is in possession of the suit property from the date of purchase. The appellant has not produced any document to prove her possession. The learned Judge, considering the materials on record and documents relied on by the respondent, held that the respondent has made out a *prima facie* case and balance of convenience is in favour of the respondent. The learned Judge has come to the said conclusion considering the documents filed by the respondent. There is no error warranting interference by this Court. This Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P. (MD) No.8018 of 2018 is closed.

8. The appellant has filed written statement on 21.01.2008. The learned Judge is directed to dispose of the suit on merits and in accordance with law without being influenced by the order passed in the Interlocutory Application granting interim injunction and the order passed by this Court in the present Civil Miscellaneous Appeal, as expeditiously as possible.

Sd/
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar (CS-IV)

To,

1. The Additional District Judge, Palani,
2. The Record Keeper,

V.R. Section,

Madurai Bench of Madras High Court, Madurai. (2 copies)

+1cc to Mr. R. SHANKAR GANESH, Advocate, SR.No.80745

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