

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Seventh day of January Two Thousand Nineteen

PRESENT

THE HON`BLE MS.JUSTICE P.T.ASHA

CMP No.9214 of 2018

in AS.No.360 of 2018

P.KALIPERUMAL PADAYACHI [PETITIONER]

Vs

1 ARUMUGA PADAYACHI [RESPONDENT]

2 THE COMMISSIONER
CUDDALORE MUNICIPALITY,
CUDDALORE.

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 suspension for the Decree of injunction granted in OS.No.151/2012 on the file of Principal District Munsif, Cuddalore. (in CMP.No.9214/2018) pending disposal of the above AS.No.360/2018.

Order: This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.D.RAVICHANDER, Advocate for the petitioner and of M/S.R.GUNARAJ, Advocate for the 1st respondent and of 2nd respondent not appearing either in person or by an advocate the court made the following order:-

This Civil Miscellaneous Petition is filed for granting an order of suspension of the decree of injunction granted in O.S.No.151 of 2012 on the file of Principal District Munsif, Cuddalore, pending disposal of the above Appeal.

2. The decree for injunction has been granted by the Court below with reference to 'B' & 'C' Schedule properties, whereby, the learned Principal District Munsif, Cuddalore has granted a permanent injunction restraining the defendant/petitioner herein from interfering with the peaceful possession and enjoyment of the 'B' & 'C' schedule properties. It is the decree for injunction that the defendant seeks to set aside.

3. A *prima facie* perusal of the judgment and decree of the Court below would show that the plaintiff is in possession of the disputed properties as it evident from the tax receipts as well as the demand notice dated 13.02.1996 & 31.03.1999 viz., Exhibits B8 & B9. The Court below has also found that the execution of the exchange deed has not been satisfactorily executed and the same was also not acted upon. In the light of such finding, this Court is not inclined to suspend the decree for injunction. Consequently, this Civil Miscellaneous petition shall stand dismissed.

-sd/-

07/01/2019

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL DISTRICT JUDGE,
CUDDALORE.

C.C. to M/S.D.RAVICHANDER, Advocate on payment of necessary charges

C.C. to M/S.R.GUNARAJ, Advocate on payment of necessary charges

Order

in

CMP.9214/2018

in AS.No.360 of 2018

Date :07/01/2019

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