

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.06.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2445 of 2019 and  
CMP.No.11239 of 2019

R.Meganathan

.. Appellant/Defendant

vs.

Dr.S.Govindarajan

.. Respondent/Plaintiff

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of C.P.C. against the fair and decreetal order dated 04.01.2019 made in I.A.No.535/2018 in O.S.No.385/2018 on the file of the II Additional District Judge, Salem and to set aside the same.

For Appellant : Mr.P.Jagadeesan  
For respondent : Mr.T.Murugamanickam,  
Senior Counsel for  
M/s.Zeenath Begum(Caveator)

JUDGMENT

This Civil Miscellaneous Appeal is directed against the fair and decreetal order dated 04.01.2019 made in I.A.No.535/2018 in O.S.No.385/2018 on the file of the II Additional District Judge, Salem and to set aside the same.

2. Heard the learned Counsel on either side and I have also perused the materials available on record including the fair and decreetal order of the court below.

3. On a perusal of the records, it appears that I.A.No.535/2018 in O.S.No.385/2018 was filed under Order 39 Rule 1 and 2 and Section 151 of C.P.C. seeking to grant an order of temporary injunction restraining the respondent therein/appellant herein from in any manner proceeding with the construction of any nature in the petition mentioned property till the disposal of that suit. While dealing with the said petition, it appears that the learned II Additional District Judge, Salem, balancing the interest of both sides, has ordered both the parties to maintain status quo as on that date in respect of the disputed property i.e. 1.6 feet North South and 66 feet East West on the South of the common wall as found in

the Advocate Commissioner's Report till the disposal of that suit by order dated 04.01.2019. That order also speaks that the said order will not prevent the respondent therein from putting up any construction in the remaining area of his property.

4. Under such circumstances, in order to give a quietus to the issue in dispute, this Court is of the view that instead of entertaining the present appeal, it would be suffice to give a direction to the trial court to dispose of the main suit on merits and in accordance with law, within a prescribed period.

5. At this stage, it is represented by the learned Counsel on either side that the trial of the suit in O.S.No.385/2018 is posted on 17.07.2019 before the trial court.

6. In view of all the above and also taking into account the fact that in the interest of both sides, the interim order of status quo has been granted by the trial court, which is just and fair, without expressing anything on merits, this Court directs the learned II Additional District Judge, Salem to take up the main suit in O.S.No.385/2018 on frequent intervals and to dispose of the same on merits and in accordance with law, as expeditiously as possible, more preferably, within a period not later than six months from the date of receipt of a copy of this Order.

7. With the above direction, the present Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The II Additional District Judge, Salem.

+1cc to M/s.Zeenath Begum, Advocate sr.52450

+1cc to Mr.P.Jagadeesan, Advocate sr.52127

C.M.A.No.2445 of 2019

mg(co)  
nr 27/08/2019