

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.03.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD)No.1183 of 2019

and

CMP.No.7605 of 2019

S. Andi

... Petitioner

-VS-

Pichaikkaran

...Respondent

Prayer: Petition under Article 227 of the Constitution of India praying to set aside the fair and decretal order dated 21.01.2019 made in C.M.A.No.4 of 2018 on the file of the learned Sub Court, Kallakurichi reversal of the fair and decretal order dated 12.01.2018 made in I.A.No.143 of 2017 in O.S.No.30 of 2017 on the file of the learned District Munsif Court, Sangarapura.

For Petitioner : Mr. R. Vinoth Raja

ORDER

The above Civil Revision Petition is filed challenging the order passed in CMA.No.4 of 2018 by the learned Subordinate Judge,

Kallakurichi in and by which the learned Judge has reversed the order passed in I.A.No.143 of 2017 in O.S.No.30 of 2017 by the District Munsif, Sangarapuram.

2. The facts in brief are as follows:

The respondent/plaintiff had filed the suit O.S.No.30 of 2017 on the file of the District Munsif, Sangarapuram for declaration and consequential injunction in respect of the suit schedule property. The plaintiff pleaded that the property which is the self acquired property of his father was bequeathed in his favour by way of a will. On the other hand, the defendant, who is none other than the brother of the plaintiff, would plead that the property is a joint family property purchased from out of the joint family funds. The plaintiff had filed the application I.A.No.143 of 2017 for ad interim injunction restraining the defendant from interfering with his peaceful possession and enjoyment of the suit properties. The learned District Munsif dismissed the said application. The said order was taken on appeal by the plaintiff in CMA.No.4 of 2018. The learned Subordinate Judge, Kallakurichi, taking into account the fact that the revenue records stood in the name of the plaintiff, was of the opinion that prima facie the respondent/plaintiff had proved his possession of the suit property and accordingly reversed the order in I.A.No.143 of 2017 and granted an

injunction. challenging the said order, the defendant is before this Court.

3. Heard Mr.R. Vinoth Raja, learned counsel for the revision petitioner/defendant who would argue that the property is a joint family property and there cannot be an injunction against the defendant. That apart, he would submit that the defendant had filed a suit for partition in O.S.No.209 of 2018 on the file of the Sub Court, Kallakurichi and therefore the injunction order would work to the detriment of the defendant.

4. Heard the learned counsel and perused the papers. Learned Subordinate Judge has only observed that the plaintiff has prima facie proved his possession and enjoyment of the suit property. The revenue records like chita, patta and other documents standing in the name of the plaintiff have been marked and therefore the learned Judge has held that the plaintiff has proved prima facie case for the grant of injunction.

5. I do not find any infirmity in the said order and therefore the Civil Revision Petition stands dismissed. Considering the fact that the suit is of the year 2017 and the written statement is on file, the

P.T. ASHA, J.,

mrn

learned Judge is directed to dispose of the same within a period of six(6) months from the date of receipt of a copy of this order.

Consequently, connected Miscellaneous Petition is closed.

28.03.2019

Index : Yes/No
Internet : Yes/No
Speaking/non-speaking order

mrn

To

1. Sub Court,
Kallakurichi

2. The District Munsif Court,
Sangarapura.

सत्यमेव जयते
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