

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Twenty Third day of July Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE M. GOVINDARAJ

CMP No.15255 of 2019

IN CRP.PD.NO.2341 OF 2019

GANESAMURTHY

[PETITIONER]

Vs

CHINNADURAI

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the order of status quo granted in IA.No.314/2018 in OS.No.109/2018 dated 19/11/2018 on the file of the court of Sub Judge , Chidambaram as confirmed in CMA.NO.1/2019 dated 04/04/2019 on the file of the court of II Addl.District Judge, Chidambaram (IN CMP.NO.15255 OF 2019 pending disposal of above CRP.PD.NO.2341 OF 2019.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MUTHUKUMAR A., Advocate for the petitioner the court made the following order:-

This petition is pursuant to the oral partition between the co-sharers who purchased seven cents of land in the year 2015. After a period of two and half years one of the co-sharer filed the suit for partition and sought for injunction restraining the petitioner / 8 defendant from interfering peaceful possession. The trial Court, on considering the submissions found that the petitioner herein has already put up constructions and in order to protect possession and enjoyment, granted interim order of status quo. On appeal by the petitioner, the lower appellate Court also confirmed the order of the trial Court.

2. It is the grievance of the petitioner that he has put up the construction and it is at the stage of completion. In view of the status quo order he could not proceed with the construction works. The trial Court having found prima facie case ought to have granted an order of interim injunction instead of status quo order. The same was confirmed on appeal. Therefore, he seeks suspension of the interim order granted by the Courts below. Admittedly, the

petitioner has proved, by documentary evidence, that he has put up construction and it is at the stage of completion and the said fact has not been disputed by plaintiff / respondent.

3. Under such circumstances, in order to strike the balance of convenience, the Trial Court should not have granted an interim order of status quo, which many time create chaos and counter productive as it happened in the present case. If the petitioner is not permitted to complete the construction, he will be put to great hardship. The petitioner has taken the risk of investing the money pending lis. The right of the co-sharers to sell the property can be decided at the stage of trial and the construction put up will be subject to out come of the suit. Hence, the interim order granted by the trial Court and confirmed by the lower appellate court is suspended pending disposal of the Civil Revision Petition.

-sd/-

23/07/2019

/ TRUE COPY /

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

TO

1 THE SUBORDINATE JUDGE
CHIDAMBARAM.

2 THE II ADDITIONAL DISTRICT
JUDGE CHIDAMBARAM.

C.C. to MUTHUKUMAR A. Advocate on payment of necessary charges

WEB COPY

Order

in

CMP.15255/2019

IN CRP.PD.NO.2341 OF 2019

Date :23/07/2019

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