

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2019

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

CRP.(PD).No.3915 of 2019

and

C.M.P.No.25846 of 2019

S.Venkatachalam ... Petitioner

Versus

S. Dharmalingam ... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order of the III Additional Subordinate Judge, Coimbatore dated 04.11.2019 passed in C.M.A.No.20 of 2019 confirming fair and decreetal order passed by the I Additional District Munsif, Coimbatore in I.A.No.481 of 2018 in O.S.No.654 of 2018 dated 28.08.2018.

For petitioner : Mr. T. Venkateshkumar

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ORDER

This Civil Revision Petition has been filed challenging the order dismissing the petitioner's application filed under Order XXXIX, Rule 1 and 2 CPC seeking for temporary injunction. The petitioner herein

filed a suit in O.S.No.654 of 2018 on the file of the District Munsif Court, Coimbatore against the respondent herein for permanent injunction restraining the respondent/defendant from disturbing his peaceful possession and enjoyment of the suit schedule property. Along with the suit, the petitioner herein filed an application for interim injunction. The trial Court, by an order dated 28.08.2018 dismissed the application. Aggrieved over the same, petitioner filed an C.M.A.No.20 of 2019 on the file of the III Additional Subordinate Court, Coimbatore. The Lower Appellate Court after considering the entire materials, by an order dated 04.11.2019 dismissed the appeal. Challenging the same, the present revision has been filed.

3. I have heard the learned counsel for the petitioner and perused the materials available on records carefully.

4. From a perusal of the records, it could be seen that in respect of the very same property, the respondent herein has already filed a suit for partition in O.S.No.1493 of 2015 on the file of the Principal Subordinate Court, Coimbatore, in which, the petitioner herein is the third defendant and an order of status-quo was passed in I.A.No.1405 of 2015 in the said suit and the same is still pending. Suppressing the above fact the petitioner has filed the present suit for injunction, the Courts below after considering the materials rightly dismissed the

application, holding that already an interim order has been passed in respect of the very same property in the suit filed by the respondent herein for partition, the petitioner is not entitled for injunction in the present suit. I find no irregularity or illegality in the order passed by the Courts below and I find no merit in the Revision Petition.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.12.2019

Index : yes/no
Internet : yes/no
Speaking/Non-Speaking order
mrp

To

1 The Additional District Munsif Court, Coimbatore
2. The Additional Subordinate Court, Coimbatore

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V.BHARATHIDASAN

mrp



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