

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R.SURESH KUMAR

C.R.P.(PD) No.3841 of 2019 and  
C.M.P.No.25323 of 2019

1.Anjalatchi  
2.Murugan  
3.Guedjendirane  
4.Kesavan .... Petitioners/Petitioners/Appellant

Vs.

1.Iyanar  
2.Pazhaniammal  
3.Inayavan  
4.Ajith  
5.Angalan  
6.Kuppammal  
7.The Union of India  
Rep. by its Chief Secretary,  
Govt. of Union Territory of  
Pondicherry having office at  
Chief Secretariat Building,  
Goubert Avenue,  
Pondicherry - 605 001.  
8.The Revenue Secretary,  
Govt. of Union Territory of Pondicherry,  
having office of Chief Secretariat Building,  
Goubert Avenue, Pondicherry - 605 001.  
9.The Tahsildar,  
Taluk Office Oulgaret,  
having office at East Coast Road,  
Kottupalayam, Lawspet Post,  
Pondicherry - 605 008.

... Respondents/Respondents/  
Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 17.10.2019 made in I.A.No.873 of 2019 in CMA.No.2 of 2019 on the file of the learned III Additional District Judge, Puducherry.

For Petitioners : Mr.R.Thiagarajan  
For RR 1 to 6 : Mr.A.Gokulakrishnan  
For M/s.G.K. Association

ORDER

This revision petition has been filed against the order passed in I.A.No.873 of 2019 in C.M.A.No.2 of 2019 by the learned III Additional District Judge, Puducherry, by order dated 17.10.2019.

2.Before the trial Court i.e., the Additional Sub Judge, Pondicherry, suit O.S.No.72 of 2019 was filed by the petitioners/ plaintiffs for declaration and injunction against the respondents/ defendants, where they have filed I.A.No.325 of 2019 seeking for ad-interim injunction and since the same was dismissed by the trial Court, by order dated 03.08.2019, as against which, civil miscellaneous appeal in C.M.A.No.2 of 2019 was preferred by the petitioners/ plaintiffs, where an I.A.No.873 of 2019 also was filed to seek for interim injunction. However, the said I.A.No.873 of 2019 in C.M.A.No.2 of 2019 has been rejected now by the First Appellate Court viz., III Additional District Judge, Puducherry, through the impugned order, aggrieved over the same, the present revision has been filed.

3.Heard Mr.R.Thiagarajan, learned counsel appearing for the revision petitioners and Mr.A.Gokulakrishnan, learned counsel appearing for the private respondents herein through caveat.

4.It is the case of the revision petitioners that, as against the order of dismissal made by the trial Court where the petitioners sought for ad-interim injunction, when they preferred civil miscellaneous appeal, where also, due to urgency, the present I.A. was filed to get an ad-interim injunction, when that is dismissed and for taking up the main CMA for hearing, if time is consumed, in the meanwhile, the very prayer sought for by the revision petitioners would become fait accompli and therefore, either ad-interim injunction could have been granted in I.A.No.873 of 2019 or atleast status quo should have been ordered, till the CMA is decided by the First Appellate Court, without which, since the IA is dismissed, the position of the petitioners/ plaintiffs/revision petitioners is in precarious condition, therefore, the revision petitioners/plaintiffs are before this Court.

5.However, Mr.A.Gokulakrishnan, learned counsel appearing for the private respondents, who entered appearance through caveat, would submit that, the issue raised by the revision petitioners as to whether they are entitled to get injunction is

the subject matter in C.M.A.No.2 of 2019. Therefore, one way or other, unless and until the CMA is decided, the revision petitioners are not entitled for injunction. Therefore, the learned First Appellate Court has rightly rejected the IA, of course on merits, after hearing both sides. Therefore, the said order, which is impugned herein, does not warrant any interference from this Court.

6.I have considered the said submissions made by both sides and I have perused the materials placed before this Court.

7.As has been pointed out by the learned counsel appearing for the revision petitioners, no doubt, the issue raised in the very CMA itself is as to whether the revision petitioners, who is the appellants before the First Appellate Court are entitled for an injunction, which was refused by the trial Court and that has to be decided in the CMA. Nevertheless, before which if anything is happened prejudicial to the interest of the revision petitioners, that should also be taken into account by the First Appellate Court. Therefore, in order to balance the both, atleast a status quo as on the date of filing of the CMA could have been maintained, while disposing the I.A.No.873 of 2019. Otherwise, after dismissal of I.A.No.873 of 2019 and before the decision to be made in C.M.A.No.2 of 2019, if anything injurious, as apprehended by the revision petitioners, is happened, then, it will be a fiat accompli from the point of view of the revision petitioners. Therefore, this Court, in order to balance both sides, is inclined to dispose of this civil revision petition with the following direction:

While confirming the order in I.A.No.873 of 2019 passed by the First Appellate Court, this Court feels that, the C.M.A.No.2 of 2019 can be decided by the First Appellate Court as expeditious as possible. Till such time, status quo as on today, insofar as the suit property is concerned, shall be maintained by both parties.

8.With the above order, this Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

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-s/d-  
Assistant Registrar

Sub-Assistant Registrar

Sgl

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To

1.The III Additional District Judge,  
Puducherry.

2.The Chief Secretary,  
The Union of India  
Govt. of Union Territory of  
Pondicherry having office at  
Chief Secretariat Building,  
Goubert Avenue,  
Pondicherry - 605 001.

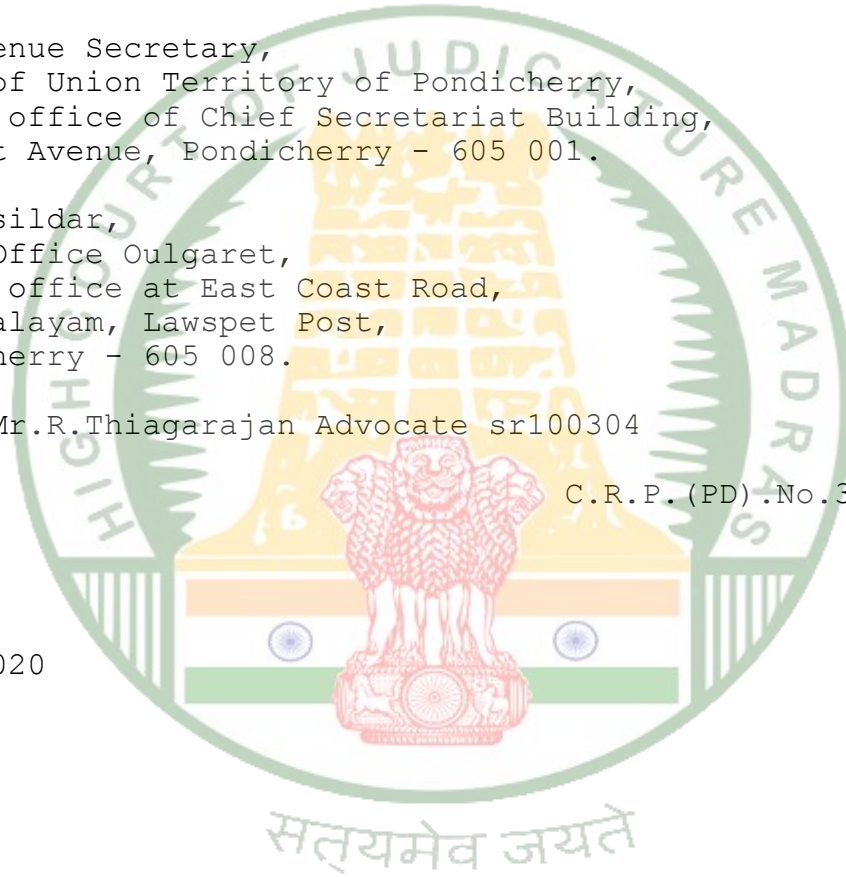
3.The Revenue Secretary,  
Govt. of Union Territory of Pondicherry,  
having office of Chief Secretariat Building,  
Goubert Avenue, Pondicherry - 605 001.

4.The Tahsildar,  
Taluk Office Oulgaret,  
having office at East Coast Road,  
Kottupalayam, Lawspet Post,  
Pondicherry - 605 008.

+1 cc to Mr.R.Thiagarajan Advocate sr100304

C.R.P.(PD).No.3841 of 2019

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