

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Thursday, the Thirty First day of January Two Thousand Nineteen

PRESENT

THE HON`BLE MS.JUSTICE P.T.ASHA

CMP No.23275 of 2018

in SA.No.867 of 2018

K. RASAGOUNDER (DIED) [PETITIONERS]

LRS OF RASAGOUNDER

- 1.MRS.KALIAMMAL,
- 2 MRS.KAWSALYA
- 3 MRS.MANO GOWRI
- 4 MRS.SHARMILA

Vs

- 1 R.GANESAN [RESPONDENTS]
- 2 MRS.KAMALAVENI
- 3 MRS.VASANTHAMANI
- 4 MRS.SUGUNA DEVI

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass an order of injunction restraining the respondents herein from in any way converting the character of the land is subject matter of the suit, by putting up construction, after encroaching the same in which is the subject matter in O.S.No.1169 of 2010, on the file of the II Additional Subordinate Judges Court, Coimbatore (in CMP.No.23275/2018) pending disposal of the above SA.No.867/2018.

EDSCRIPTION OF PROPERTY XEROX COPY ATTACHED

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.C.R.PRASANAN, Advocate for the petitioner the court made the following order:-

The plaintiff in the suit for specific performance is the appellant herein. The suit was decreed and was reversed in the appeal in A.S.No.73 of 2016. The present petition is filed for an injunction restraining the respondent from converting the character of the suit property by putting up construction after encroaching into the same.

2. The plaintiff had pleaded that he had been put in possession of the suit property which was rebutted by the defendant. There is no issue raised with reference to possession and there is no interim order that has been granted to the appellant /plaintiff.

3. Considering the fact that the Appellate Court had modified the decree ordering the refund of money on the basis that Ex.A1 had been materially altered and since no interim order was granted in the Courts below, this Court does not deem it fit to grant the relief as prayed for. In the result, this Civil Miscellaneous Petition is dismissed.

-sd/-

31/01/2019

/ TRUE COPY /

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

TO

1 THE II ADDITIONAL SUBORDINATE
JUDGE, COIMBATORE.

2 THE I ADDITIONAL DISTRICT
JUDGE, COIMBATORE.

C.C. to M/S.C.R.PRASANAN Advocate on payment of necessary charges

Order

in

CMP No.23275 of 2018

in SA.No.867 of 2018

Date :31/01/2019

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