

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Twenty First day of January Two Thousand Nineteen

PRESENT

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

CMP No.22385 of 2018

in SA.798/2016

1 G. GANESAN,

[PETITIONES]

2 G.SARAVANAN

Vs

G. SHANMUGAM

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the order of status co granted in CMP No.15074/2016 in SA no.798/2016 vide order dt. 21/09/2016 (CMP.22385/2018) pending before this Honble court. SA.798/2016

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.M.ASWIN, Advocate for the petitioner and of MR.T.R.RAJARAMAN, FOR M/S.P.VEENA SURESH, Advocate for the Respondent the court made the following order:-

The above application is filed seeking an order of interim injunction restraining the respondent from obliterating the channel which is the subject matter of the suit in O.A.No.160 of 2009 on the file of the Additional District Munsif Court, Tiruvannamalai. The petitioner and the respondents are brothers and it appears in the year 1993, there had been a partition between the brothers, in which the properties have been allotted to each of them and portions retained in common to be used as a pathway and also for running the pipelines.

2. It has been pointed out by the learned counsel for the appellant that the respondent as DW1 has very clearly admitted that the plaintiff who is the appellant herein has been running his pipeline through the common cart track and that this cart track is common to both parties. He has further deposed that he has no objection to the same being enjoyed by the plaintiff also. The suit was dismissed, against which an appeal was filed and the appeal was also dismissed on the ground that the plaintiff has not

proved his subsisting disturbance. Be that as it may. This court has admitted the second appeal on 21.01.2016 on 3 questions of law and this court was also pleased to grant an order of status-quo.

3. Considering the admission of the defendant as DW1, the status quo has been granted. The status quo already granted by this court shall be made absolute and both defendants as well as the plaintiffs shall maintain status quo in respect of the properties which is the subject matter of the suit in O.S.No.160 of 2009 on the file of the Additional District Munsif Court, Tiruvannamalai.

4. In View of the above, CMP. No.15074 of 2016 is disposed off making the status quo order already granted absolute and both the defendants as well as the plaintiffs shall maintain status quo in respect of the properties subject matter of the suit in O.S.No.160 of 2009 on the file of the Additional District Munsif Court, Tiruvannamalai.

6. In view of the above CMP.No.22385 of 2018 stands dismissed.

-sd/-

21/01/2019

/ TRUE COPY /

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

TO

1 THE ADDITIONAL DISTRICT MUNSIF
TIRUVANNAMALAI.

2 THE PRINCIPAL SUBORDINATE
JUDGE, TIRUVANNAMALAI,

C.C. to M/S.M.ASWIN Advocate Sr.No. 933
C.C. to MR.P.VEENA SURESH, Advocate Sr.No.787

Order
in
CMP.22385/2018

IN SA.798/2016

Date :21/01/2019

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RRI 28/01/2019