

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.02.2019

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A.Nos. 3088 and 3089 of 2018
and
C.M.P.Nos.23491,23492 and 23495

The Commissioner
Palladam Municipality,
Palladam. ... Appellants in both C.M.A's

versus

1. A. Jaganathan
2. J. Soundarajan
3. Smt.Sumathi
4. The District collector,
Tirupur.
5. The District Revenue Officer,
Tirupur.
6. The Revenue Divisional Officer,
Tirupur.
- 7.The Tahsildar,
Palladam.
8. The settlement Tahsildar - II
Gobichettipalayam
Now represented by
9. The Assistant Settlement Officer,
(South) and the Additional Personal Assistant to
the Director of Survey and Settlement,
Chepauk, Chennai - 600 005. ... Respondents

Prayer in both the appeals : The Civil Miscellaneous Appeal is filed under Order XLIII Rule(5) of C.P.C to set aside the petition and Order passed by the learned II Additional District Judge, Tirupur dated 25.10.2018 in I.A.Nos. 1652 and 1653 of 2018 in O.S.No. 234 of 2018 and allow both the Civil Miscellaneous Appeals.

For Appellants :Mr.S.R. Rajagopal
(in both appeals) Additional Advocate General
for Mr.A.S.Tambusamy

For Respondents :Mr. N.S. Nanda Kumar
(in both appeals)

C O M M O N J U D G M E N T

The appellant has prayed to set aside the petition and order passed by the learned II Additional District Judge, Tiruppur dated 25.10.2018 in I.A.Nos.1652 and 1653 of 2018 in O.S. No.234 of 2018.

2. The respondent/plaintiff has filed the suit in O.S.No.234 of 2018 and also filed I.A.Nos.1652 and 1653 of 2018. Considering the case of the plaintiff/respondents, the learned Additional District Judge, Tiruppur at the Admission stage itself has granted an order of status quo without verifying the documents produced by them.

3. Challenging the order of the learned Additional District Judge, Tiruppur, dated 25.10.2018, the appellant has preferred this appeal.

4. Heard the submissions of S.R. Rajagopal, learned Additional Advocate General representing for the learned counsel Mr.A.S.Thambuswamy, for the appellant and Mr.N.S. Nanda Kumar, learned counsel for the respondents and perused the materials available on record.

5. It is the case of the respondents/plaintiffs that they have filed the said suit and along with the suit they have filed a number of documents for supporting the case. When the suit was pending the respondents/plaintiff has filed two Interim Applications in I.A.No.1652 and 1653 of 2018 for grant of temporary injunction.

6. It is seen from records that though the learned II Additional District Judge, Tiruppur has considered all the documents filed by the respondents/plaintiffs but without issuing notice the order of status quo was granted. The order of Status Quo has greatly affected the construction of Micro compost Centre at S.F.No.872 at Madapur Village.

7. The learned Additional Advocate General also represented before this Court that based on the orders of the Municipal Administration, the construction work of

Micro compost Centre at S.F.No.872 at Madapur Village, construction was on progress but now it was stopped. The learned Advocate General also contend that in the suit scheduled property the Government Scheme has to be implemented for the General Public.

8. The learned Judge has considered the case based on the photographs filed by the plaintiff/respondent and also the documents which are filed along with the plaintiff and simply granted the status quo which cause more inconvenience to the defendants in the said suit. Time and again this Court and the Hon'ble Apex Court were categorically held that whenever the parties approach the Civil Court seeking order of Interim injunction, the Court must go through the documents and if the prima facie case is proved by the plaintiff then, the Interim Injunction should be granted to the plaintiffs. The Court must consider the documents carefully and then only consider the case of grant an order of interim injunction.

9. On fair reading of the order passed by the learned Judge granting status quo on 25.10.2018 it made clear that without analyzing all the documents of either side the order was passed. Therefore, without going into the merits of the case of the either parties, I am inclined to set aside the order in I.A.Nos.1652 and 1653 of 2018 dated 25.10.2018 and remit back the matter to the learned Additional District Judge, Tiruppur for fresh consideration by giving fair opportunities to both the parties, which will ends of justice.

10. In the result:

a) both the Civil Miscellaneous Appeals are allowed by setting the order passed in I.A.No.1652 and 1653 of 2018 dated 25.10.2018 and in O.S.No.234/2018 on the file of the learned II Additional District Judge, Tiruppur.

b) the respondents in I.A.No.1652 and 1653 of 2018 are directed to file counter if any before the learned Judge within a period of one week from the date of receipt of the copy of this order and

c) the learned Judge is directed to consider both the applications afresh within a period of two weeks thereafter without influencing any averments made in this order.

11. Accordingly without going into the merits of the case, both the above Civil Miscellaneous Appeals are allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

smn

To

1.The II Additional District Judge, Tirupur

2.The District collector, Tirupur.

3. The District Revenue Officer, Tirupur.

4.The Revenue Divisional Officer, Tirupur.

5.The Tahsildar,
Palladam.

6. The settlement Tahsildar - II
Gobichettipalayam

7. The Assistant Settlement Officer,
(South) and the Additional Personal Assistant to
the Director of Survey and Settlement,
Chepauk, Chennai - 600 005.

+1cc to Mr.A.S.Tambusamy , Advocate SR.No. 8746

C.M.A.Nos. 3088 of 2018 and 3089 of 2018
and
C.M.P.Nos.23491,23492 and 23495

A.SK (11/02/2019)

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