



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

WEB COPY

C.M.A. (MD) .Nos.1005 and 1006 of 2014
and

M.P. (MD) .Nos.1 & 1 of 2014

1.M.Ponnu @ Karuppayee Ammal

2.M.Lakshmipathi Rajan ...Appellants/Petitioner/Plaintiff in both
C.M.As

Vs.

1.M.Dhanalakshmi

2.Malliga @ Sharma ... Respondents/Respondents/Defendants in
both C.M.As

COMMON PRAYER: Civil Miscellaneous Appeals filed under Order 43 Rule 1 of CPC, against the fair and decreetal order dated 05.02.2014 in I.A.Nos.392 and 393 of 2013 in O.S.No.59 of 2013 on the file of the VI Additional District Judge, Madurai.

For Appellants in

both C.M.As : No appearance

For R1 in both

C.M.As : Mr.P.Padithurai

COMMON JUDGMENT

The Civil Miscellaneous Appeals have been filed against the fair and decreetal order dated 05.02.2014, passed in I.A.Nos.392 and 393 of 2013 in O.S.No.59 of 2013, by the VI Additional District Judge, Madurai.

2.The appellants/plaintiffs have filed Interlocutory Application in I.A.No.392 of 2013 seeking for interim injunction to restrain the defendants from trespassing into the suit properties and another I.A.No.393 of 2013 seeking for interim injunction to restrain the defendants from alienating or encumbering the suit properties, stating that the respondents/defendants have no right in the suit properties and the plaintiffs are in possession and enjoyment of the same for nearly 32 years and hence, they are seeking for the aforesaid relief.

3.In the counter affidavit, the respondents herein have stated that already a suit in O.S.NO.214 of 2004 was filed by the first respondent and others against the second petitioner herein and one Rajalakshmi, for partition of the properties of Mani @ Veeranan Ambalam and in that suit, a preliminary decree was passed on 25.11.2008 and subsequently, final decree application was filed in I.A.No.22 of 2010 and the same is pending. The property described in the present suit are separated, which is a self acquired property of the first respondent and the same were not included in O.S.No.214 of 2004. The first respondent has also denied the compromise entered into between himself and the family members and he has not signed in



any of the compromise agreement.

4.The Trial Court has observed the fact that the petition mentioned properties belonged to the first respondent by way of sale deed, in which, it has not been mentioned that the first respondent is the daughter of Veeranan Ambalam and the said sale deed was effected only in the name of wife of one Magalingam and the suit property was also given by way of a settlement. Further, the Trial Court observed that the entire property in the said suit was sold to the first respondent by verifying the document Ex.R.1 and Ex.R.2 and there is no document relied in respect of the family arrangement made on 14.08.2007 as stated by the petitioners. Hence, the trial Court observed all these facts and dismissed the I.As. Aggrieved against the I.As., the present C.M.As have been preferred by the appellants.

5.It is seen from EX.R.3 that patta was also stand in the name of the first respondent. Further, the documents Ex.R.6 to Ex.R.11 were also proved the said fact that the first respondent is in possession and enjoyment of the property.

6.Further, it is also brought to the notice of this Court that the said suit filed by the appellants/plaintiffs was dismissed for default on 07.11.2016 itself.

7.On an earlier occasion, when the matter was called, there was no representation on the side of the appellants. Even today, there is no representation on behalf of the appellants. In spite of sufficient opportunity was given to the appellants, they have not appeared either their counsel or in person. Hence, the civil miscellaneous appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-I)

To

1.The VI Additional District Judge,
Madurai.

2.The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.Sankar, Advocate, SR.No.58577

C.M.A. (MD) .Nos.1005 and 1006 of 2014
and

M.P. (MD) .Nos.1 & 1 of 2014
02.04.2019