

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Tuesday, the Twenty Fourth day of November Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE R. SUBRAMANIAN

CMP No.10666 of 2020
IN SA.438/2020

1 VANJINATHAN [PETITIONERS]

2 SUGANTHY

Vs

1 PONMUDI [RESPONDENTS]

2 KILLIVALAVAN @ AIYYAPPAN

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 interim injunction restraining the respondent from not to disturb the petitioners peaceful possession and enjoyment in the schedule mentioned property, (IN CMP.NO.10666 OF 2020)pending disposal of the above S.A.438 OF 2020.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.E.KARTHIK RAJA, Advocate for the petitioner and of M/S. D. VEERASEKARAN, ADVCOATE on behalf of the Respondent the court made the following order:-

This Civil Miscellaneous Petition has been filed by the petitioners, seeking an interim injunction restraining the respondents from interfering with their possession of the suit property.

2. The petitioners laid the suit for permanent injunction claiming that the suit property measuring about 1 cent is a pathway to their land. This suit was resisted by the defendants contending that the extent of Survey No.332/1 was only 31 cents and not 32 cents as claimed by the plaintiffs. The defendants would further contend that they are entitled to entire extent of 31 cents and therefore there is no pathway in existence on the ground.

3. The Trial Court decreed the suit. The Lower Appellate Court has come to a factual conclusion that the extent of land in Survey No.332/1 is only 31 cents and not 32 cents. The correctness of the finding will have to be decided in the appeal.

4. Pending appeal, the petitioners seeking an order of injunction.

5. It is seen from the affidavit filed in support of this petition as well as the counter affidavit filed that there was no injunction protecting the rights of the plaintiffs in the suit. The suit was instituted in the year 2001 and was disposed of in the year 2017 nearly after 16 years. Though the suit was decreed by the Trial Court, on appeal, the Appellate Court has reversed the decree. I therefore do not see any prima facie case or balance of convenience in favour of the petitioners to enable them to secure an order of injunction by this Court pending the second appeal.

6. This Civil Miscellaneous Petition therefore fails and it is dismissed accordingly.

-sd/-

24/11/2020

/ TRUE COPY /

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

TO

1 THE DISTRICT MUNSIFF
CUM JUDICIAL MAGISTRATE, TITTAGUDI.

2 THE PRINCIPAL SUBORDINATE
JUDGE TITTAGUDI.

C.C. to MR.G.KARTHIKEYAN Advocate SR.NO.5789

C.C. TO THE M/S. D. VEERASEKARAN, ADVCOATE SR.NO.5776/2020

Order

in

CMP.10666/2020

in

SA.438/2020

Date :24/11/2020

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VC (01/10/2020)

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VC (02/12/2020)