

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Wednesday, the Twenty Second day of January Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE M.M.SUNDRESH

AND

THE HON`BLE MR JUSTICE KRISHNAN RAMASAMY

C.M.P.NOS.27029 IN C.M.P.NO.23946 OF 2019,
23923 AND 23925 OF 2019
IN A.S.NO.785 OF 2019

1 U.MONISHA [PETITIONERS IN ALL THE PETITIONS]
RES AT NO.187, F-BLOCK, THANIKACHALAM NAGAR,
III-MAIN ROAD, VASANTHAM COLONY, MADHAVARAM,
CHENNAI-600110

2 C.U.PRASHANTH
RES AT NO.187, F-BLOCK, THANIKACHALAM NAGAR,
III-MAIN ROAD, VASANTHAM COLONY, MADHAVARAM,
CHENNAI-600110

Vs

1 M/S.SOUTH INDIA SCHEDULED [RESPONDENTS IN ALL THE PETITIONS]
TRIBES, WELFARE ASSOCIATION (REGD. NO.
205/1972), NO.579 (379) ANNA SALAI, SAIDAPET,
CHENNAI-600015, REP. BY ITS SECRETARY
MR.K.RAGHUPATHY

Petition praying that in the circumstances stated therein
and in the affidavit filed therewith the High Court will be pleased
to

(I) CMP No.27029 of 2019
To modify the conditional interim stay order dt. 18.11.2019 made in
CMP No.23946 of 2019 in AS No.785 of 2019 as detailed in the
schedule to this petition

SCHEDULE XEROX COPY ATTACHED

(II) CMP No.23946 of 2019
To pass an order of interim stay of all further proceedings in
pursuance to the impugned common judgment and decree dt. 03-06-2019
made in the counter claim suit in Os No. 122/2017 on the file of
the IV Additional District Judge, Ponneri pending disposal of the
above Appeal.

(III) CMP No.23923 of 2019

To pass an order of Interim Injunction restraining the respondent / defendant or their men, agent(s) servant(s) administrator(s) nominees (s) assignee(s) successors-in-office from time to time or any other person or persons claiming through the respondent/defendant either directly or indirectly in any manner whatsoever from interfering into the peaceful possession and enjoyment of the entire suit schedule-B land which is morefully described in the schedule in OS No.122/17 pending disposal of the above Appeal.

(IV) CMP No.23925 of 2019

To pass an order of Interim Injunction restraining the respondent / defendant or their men, agent(s) servant(s) administrator(s) nominees (s) assignee(s) successors-in-office from An order of Interim Injunction restraining the respondent/defendant or their men, agent(s) servant(s) administrator(s) nominees (s) assignee(s) successors-in-office from time to time or any other person or persons claiming through the respondent/defendant either directly or indirectly in any manner whatsoever from creating or effecting any kind of transfer(s) in respect of the entire suit schedule -B land and particularly described in the schedule in O.S.122/17 pending disposal of the above appeal and pass

SCHEDULE-B XEROX COPY ATTACHED

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.M.S.MANI, Advocate for the petitioner and of MR.P.SUBBA REDDY on behalf of the Respondents the court made the following order:-

(Order of the Court was made by **M.M.SUNDRESH, J.**)

Petitioners in these petitions are the plaintiffs in the suit. The suit has been laid for specific performance. It appears that the respondent has also effected sale of part of the property mentioned in the agreement for sale. However, it is the case of the respondent that excess amount has been paid.

2.The Trial Court, on contest, dismissed the suit for specific performance while decreeing the suit for return of excess amount paid by the respondent. Challenging the same, the present appeals have been filed. Pending the appeals, these petitions have been filed seeking an order of injunction restraining the respodnent from interfering with the possession of the petitioners. Incidentally, the petitioners sought for modification of the order dated 18.11.2019 passed by this Court in C.M.P.No.27029 of 2019 in A.S.No.785 of 2019 while granting stay on condition that the petitioners should pay 50% of the amount decreed by the Trial Court along with proportionate interest.

3.Learned counsel appearing for the petitioners submitted that possession is with the petitioners and the petitioners are unable to comply with the interim order passed. They are ready and willing to furnish immovable property security for the same. Therefore, the order dated 18.11.2019 passed by this Court in C.M.P.No.27029 of 2019 in A.S.No.785 of 2019 requires to be modified.

4.Learned counsel appearing for the respondent submits that the agreement being an unregistered one, the question of seeking injunction does not arise. The suit itself has been dismissed and therefore, there is no legal right as on today in favour of the petitioners. Insofar as the modification petition is concerned, learned counsel submits that the same is devoid of merits. Thus, the said petition also will have to be dismissed.

5.We find force in the submission made by the learned counsel appearing for the respondent sofar as the injunction sought for is concerned. Admittedly, the document has not been registered. Further more, the suit itself has been dismissed. In such view of the matter, we are not inclined to grant an order of interim injunction pending appeal on the premise that the petitioners are in possession of the suit property. However, we make it clear that the respondent shall not alienate or encumber the suit property pending disposal of the appeal.

6.Insofar as the issue of modification is concerned, the petitioners have stated that they are unable to make the payment. Considering the above coupled with the fact that the petitioners are willing to furnish immovable property security, we are inclined to consider the said request. Accordingly, the order dated 18.11.2019 passed by this Court in C.M.P.No.27029 of 2019 in A.S.No.785 of 2019 stands modified to the effect that the petitioners shall furnish immovable property security to the tune of 50% of the decretal amount along with proportionate interest to the satisfaction of IV Additional District Judge, Ponneri, within a period of four weeks from the date of receipt of a copy of this order.

7.Accordingly, C.M.P.Nos.23923 and 23925 of 2019 stand dismissed and C.M.P.No.27029 of 2019 stands allowed.

-sd/-

22/01/2020

/ TRUE COPY /

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

TO

1 THE IV ADDITIONAL DISTRICT
JUDGE PONNERI.

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

Order

in

C.M.P.NOS.27029 IN C.M.P.NO.23946 OF 2019,
23923 AND 23925 OF 2019 IN A.S.NO.785 OF 2019

Date :22/01/2020

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
VC (25/02/2020)



WEB COPY