

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2020

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
O.S.A.No.383 of 2018 and
C.M.P.No.17373 of 2018

N.Chandra Babu

... Appellant/Defendant

Vs.

1.N.Venugopool
2.B.Pappayee Ammal
3.R.Dhanalakshmi
4.K.Susila
5.H.Rajalakshmi
6.N.Hamsa
7.N.Balakrishnan

... Respondents

Prayer : Appeal filed under Order XXXVI Rule 9 of OS Rules read with Clause 15 of the Letters Patent, as against the Fair and Decretal Order passed in O.A.No.1239 of 2017 in C.S.No.705 of 2015 dated 09.04.2018 making absolute the interim injunction granted in favour of the plaintiff.

For Appellant : Mr.M.Balasubramanian

For R 1 : Mr.K.Rajendra Prasad

For RR 2 4 & 7 : Door Locked

R3 & 7 : Service awaited

R5 : Notice served not ready in
notice Reg (RR2,3,4,6 &7)

J U D G M E N T

(Judgment of the Court was delivered by Dr.VINEET KOTHARI, J.)

The present Appeal has been filed by the 3rd defendant/younger brother N.Chandra Babu S/o.Mr.Narayanasamy against the interlocutory order passed by the learned Single Judge in O.A.No.1239 of 2017 in C.S.No.705 of 2015 [N.Venugopal Vs. B.Papaayee Ammal and 6 others].

2.The learned Single Judge, after satisfying prima facie that the plaintiff is in possession of the suit property in question, directed the defendants not to interfere with the peaceful possession of the plaintiff suit property in question.

3.The learned counsel for the Appellant/Defendant Mr.M.Balasubramaniam submitted that plaintiff is not in possession of the property in question and therefore, the interim order was wrongly made absolute, whereas the learned counsel for the Plaintiff/1st respondent Mr.K.Rajendra Prasad submitted that on the evidence adduced by the Plaintiff has established that he is in possession of the first floor of the house in question and the Defendant younger brother is trying to disturb the peaceful possession and therefore, the interlocutory order passed deserves to be maintained throughout the trial.

4.Having heard the learned counsel for the parties, we are not inclined to interfere with the order passed by the learned Single Judge and it seems to be in the interest of the property as well as the parties to maintain the status of possession of the plaintiff in the first floor of the house in question during the trial.

5.However, looking to the close relationship of the parties, they would be well advised to explore the possibility of a mutual settlement amicably.

6.With these observations, the Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is also closed.

s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

Sgl

Copy to
The Sub Assistant Registrar
(Original Side)
High Court Madras

+1 cc to Mr.M.Balasubramanian Advocate sr23436
+1 cc to Mr.K.Rajendra prasad sr23145

O.S.A.No.383 of 2018

rlld(co)
aa17/07/2020