



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2020

CORAM

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

C.M.P. (MD)No.2889 of 2020

in

A.S. (MD) .No.85 of 2020

1. R.Devaki
2. V.Lakshmi Praba
3. S.Revathi
R.Mlalathi (Died)
4. D.Rajasekaran
5. R.PRakash

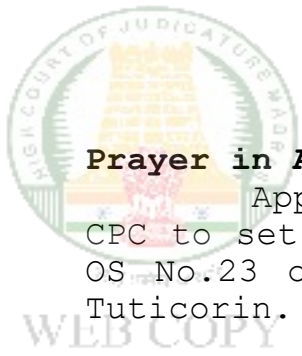
... Petitioners/Appellants

Vs.

1. D.Ganesan
2. S.Meera Bai
3. N.Visalatha
4. S.Giridaran
5. S.Gauthaman
T.Anusuya (Died)
6. T.Raghavan
7. S.Jalaja
8. S.Muralidaran
9. R.Vanaja
10. N.Chandrasekaran
11. R.Aravindh

... Respondents/Respondents

Prayer in C.M.P. (MD)No.2889 of 2020 : Petition filed under Order 39 Rule 1 and 2 of C.P.C, to pass an order more in the nature of interim injunction restraining the respondents herein and their men, agents, etc., from any manner alienating or encumbering the petition scheduled properties which is the subject matter of the suit in O.S.No.23 of 2016 on the file of I-Additional District Court, Tuticorin, pending disposal of the main Appeal Suit.



Prayer in AS(MD) . 85/ 2020 :

Appeal Suit filed under Order 41, Rule I r/w section 96 of CPC to set aside the judgment and decree dated 06.01.2020 passed in OS No.23 of 2016 on the file of the I Additional District Court, Tuticorin.

For Petitioners : Mr.D.Nallathambi

For Respondents : R.Pon Karthikeyan

ORDER

[Order of the Court was made by **M. SATHYANARAYANAN, J.**]

The appellants are the plaintiffs 2 to 4, 6 and 8. The Suit for partition and other consequential relief in O.S.No.23 of 2016, on the file of I Additional District Court, Thoothukudi, came to be dismissed vide impugned judgment dated 06.01.2020 and aggrieved by the same, the present appeal is filed.

2. The learned Counsel appearing for the petitioners/appellants would submit that taking advantage of the judgment and decree in their favour, the respondents are trying to alienate the properties and pending disposal of the suit, the plaintiffs had the benefit of interim order *status quo* in respect of 7 schedules in I.A.No.70 of 2016 and prays for appropriate orders.

3. Mr.R.Pon Karthikeyan, learned Counsel appearing for the sixth respondent has filed the counter affidavit and has drawn the attention of this Court to paragraph No.7 of the counter affidavit and submitted that pending disposal of the suit, the respondents have no intention to alienate or create the third party rights in respect of the properties in question and therefore, the apprehension expressed by the petitioners/appellants is wholly unfolded.

4. This Court has carefully considered the rival submissions and also perused the materials placed before it.

5. It is relevant to extract the portion of the paragraph No.7, in the counter affidavit:-

"...As we have not proposed to alienate the suit schedule properties and no steps were taken by us for any disposal or alienation of the suit properties and in the absence of any such averments, the present application seeking interim injunction not to alienate the petition mentioned properties is not maintainable and the same is liable to be dismissed."



6. The said undertaking given in paragraph No.7 of the counter affidavit is placed on record and in the light of the same, no orders are necessary in this miscellaneous petition and therefore, it is closed.

WEB COPY

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Copy to:

I Additional District Court,
Tuticorin.

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