

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2021

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1022 of 2016

and

M.P No.7783 of 2016

1.Sarojini
2.Malliga
3.Rani
4.V.Mani
5.Nalini
6.Sundaram @ Batcha

..Appellants/Respondents/
Defendants 1 to 6

Vs.

1.V.Chandrababu

2.M/s.S.J.Mobiles represented by
its Proprietor M.Santhakumar
No.236, Rajiv Gandhi Salai
Kumaran Nagar Near TCS
Sholinganallur Chennai-600 119

3.M/s.Hotel Top City (Party A/c)
represented by its partner Basheer
No.236, Rajiv Gandhi Salai
Kumaran Nagar Near TCS
Sholinganallur, Chennai-600 119

4.M/s.Ganesan Medicals represented
by its Proprietor G.Sathish
Old No.107/New No.236,
Rajiv Gandhi Salai
Kumaran Nagar Near TCS
Sholinganallur, Chennai-600 119

5.Dr.P.Sathyadharan

6.M/s.Southi Snacks, represented
by its Proprietor Shaji
No.236, Rajiv Gandhi Salai
Kumaran Nagar Near TCS
Sholinganallur, Chennai-600 119

7.HDFC Bank ATM, represented
by its Branch Manager,
No.236, Rajiv Gandhi Salai
Kumaran Nagar Near TCS
Sholinganallur, Chennai-600 119

8.Rani

9.Prathiba

10.The Tahsildar, Sholinganallur
Office, No.236, Rajiv Gandhi Salai
Kumaran Nagar OMR Road
Sholinganallur, TCS
Chennai-600 119

11.The District Collector
Kancheepuram District .Respondents 2 to 11/
Respondents 7 to 16/Defendants 7 to 16

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1 (S) of CPC, to set aside the fair and decreetal order dated 20.01.2016 in I.A No.460 of 2013 in O.S.No.110 of 2013 on the file of the Additional District and Sessions Court, Kancheepuram at Chengalpattu.

For Appellants : Mr. V.Sivalingam for 1st Appellant
(Change of vakalat given)
Mr.S.Santhosh for Appellants 2 to 6

For Respondents: Mr.V.Maniskaran for R1
Mr.S.Jeganathan
Government Advocate for R10 & R11

RR2 to 9 : No Appearance

J U D G M E N T

The fair and decreetal order passed in I.A.No.460 of 2013 in O.S.No.110 of 2013 dated 20.01.2016 is under challenge in the present Civil Miscellaneous Appeal.

2. The defendants are appellants in the present appeal. The respondents, who instituted the suit for partition and during the pendency of the suit, an interlocutory application was filed by the plaintiff for appointment of Receiver. The trial Court appointed the Receiver for the purpose of collection of rent from the tenants. Challenging the said order, the present appeal is filed.

3. This Court is of the considered opinion that the Receiver was appointed as early as 20.01.2016 and the remuneration for the Receiver was also fixed by the trial Court. Receiver was appointed for collection of rent from the tenants and this cannot be said to be irregular or improper. The respective learned counsels appearing on behalf of the parties have also admitted the fact that the huge amount of rent are to be collected from the parties and therefore, appointment of Receiver is necessary in the interest of the parties concerned.

4. This Court is of the considered opinion that appointing a Receiver for collection of rent would not cause any prejudice to either of the parties. Tenants are ready to pay the rent and therefore, collection of rent by the Receiver is just and necessary.

5. This being the factum, there is no perversity or infirmity in respect of the order passed by the trial Court. However, the impugned suit itself is kept pending in view of the fact that the present appeal is pending before this Court, In the absence of the interim injunction in the appeal, the trial Court ought to have proceeded with the suit. However, it is not done. This being the factum, the trial Court has to expedite the main suit for final disposal.

6. Accordingly, the fair and decreetal order dated 20.01.2016 passed in I.A No.460 of 2013 in O.S No.110 of 2013 stands confirmed. Secondly, the present Civil Miscellaneous Appeal No.1022 of 2016 stands dismissed. No costs. The trial Court is directed to dispose of the suit as expeditiously as possible and preferably within a period of six months from the date of receipt of a copy of this judgment. Consequently, the connected Miscellaneous Petition is closed.

7. The parties are restrained from seeking unnecessary adjournments. Even in case, adjournments are to be granted on genuine grounds and the Court should record the reasons. The adjournments on flimsy grounds are liable to be rejected in limini.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

The Additional District and Sessions Judge,
Kancheepuram
Chengalpattu.

+lcc to Mr.V.Manisekaran, Advocate SR.1059
+lcc to the Spl.Govt Pleader SR.1365

C.M.A.No.1022 of 2016
C.M.P.No.7783 of 2016

AD(CO)
CB(12/03/2021)