

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2021

CORAM

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

C.M.A.No.1195 of 2016
C.M.P.Nos.674 & 675 of 2017

1.S.Manavalan
2.Bagirathy

..Appellants

Vs.

1.Selvambal
2.Jayagowri
3.S.Ravindran
4.S.Venugopalakrishnan
5.M.Raja
6.Sivasakthi
7.M.Nirmala
8.A.Sivakumar
9.A.Lakshmi
10.M.Ramesh
11.A.Arulmozhi
12.G.Manibalan
13.K.Kalaiarasi

..Respondents

Respondents 5 to 13 are impleaded as per the order of this Court dated 05.01.2021 in C.M.P.No.673 of 2017 in C.M.A.No.1195 of 2016

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1 (r) of CPC, to set aside the fair and decreetal order dated 21.04.2016 passed in I.A.No.1004 of 2015 in O.S.No.150 of 2015 on the file of the III Additional District Court, Puducherry.

For Appellants : M/s.R.Meenal

For Respondents : Mr.D.Ravichander

for RR1 & 2

Mr.D.Senthil Kumar for RR5 & 6

No-appearance for RR3 & 4

J U D G M E N T

The Fair and Decreetal Order passed in I.A.No.1004 of 2015 in O.S.No.150 of 2015 dated 21.04.2016 is sought to be set aside in the present Civil Miscellaneous Appeal.

2. The defendants are the appellants in the present appeal and the respondents instituted a suit for partition. The interlocutory application filed along with the suit in I.A.No.1004 of 2015 was considered and an interim injunction was granted by the trial Court. Subsequently, the defendants/appellants filed the present appeal challenging the said interim injunction granted by the trial court in favour of the respondents.

3. The learned counsel for the appellants mainly contended that the respondents are no right for partition and therefore, the interim injunction was erroneously granted by the trial Court. It is further stated that the suit properties were granted in favour of the sons of the appellants and therefore, no injunction can be granted.

4. The learned counsel for the respondents objected the said contention by stating that by abusing the interim order granted by this Court in the Civil Miscellaneous Petition, the petitioners have already sold most of the properties. Therefore, the interim injunction already granted by the Trial Court is to be confirmed.

5. This Court is of the considered opinion that the suit was instituted in the year 2015 and the present appeal is filed on 08.06.2016 and an interim injunction granted by the trial Court is in-force. The grievances of the respondents are that the suspension of interim injunction granted by this Court was abused by the appellants and they have sold most of the properties. It is needless to state that if the statements are true, then such sales are undoubtedly subject to the main suit which is yet to be disposed of. The actions of the parties during the existence of the interim order, if exceeds or fructifies the main suit, then the Courts are bound to decide the issues independently and uninfluenced by such illegal or irregular actions of either of the parties during the pendency of the suit or by taking undue advantage of the interim order if any passed by the Courts. This being the principles to be followed by the Court, any sale or auction by any party to the litigation by virtue of an interim order cannot be upheld by the Courts and the issues raised in the suit are to be decided strictly in accordance with the documents and evidence produced by the parties and the rights of the parties cannot be denied merely on the ground that the character of the properties changed.

6. However, all these factors are to be adjudicated in a full-fledged trial with reference to the documents and evidence to be produced and adduced by the parties to the civil suits.

7. Under these circumstances, there is no reason to interfere with the orders of the trial Court granting interim injunction in favour of the respondents. Since it is brought to the notice of this Court that most of the properties were already sold by the petitioners during the pendency of the civil miscellaneous Appeal, this Court is inclined to pass an order of status quo as on today (05.01.2020), till the disposal of the suit by the trial Court. Both the appellants and the respondents are restrained from alienating or dealing with the suit properties till the disposal of the suit by the trial Court on merits and in accordance with law.

8. The trial Court is directed to dispose the suit within a period of six months, in view of the fact that there is an allegation against the petitioners that they have sold the properties during the pendency of the Civil Miscellaneous Appeal. The parties to the civil suit are directed to co-operate for earlier disposal of the suit. The trial Court shall not grant unnecessary adjournments at the instance of either of the parties. In the event of granting unnecessary adjournments, the trial Court is directed to record the reasons.

9. With these directions, the Civil Miscellaneous Appeal stands allowed in part. No costs. Consequently, connected miscellaneous petitions are also closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssb

To

1. The III Additional District Judge
III Additional District Court, Puducherry.

2. The Section Officer
VR Section
High Court, Madras 104.

+1 CC to Mr.D.Senthil Kumar, Advocate sr 556.
+1 CC to M/s.R. Meenal, Advocate sr 384.

C.M.A.No.1195 of 2016

BR(CO)
SP(05/03/2021)