

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.01.2021
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.603 of 2019
C.M.P.No.1923 of 2019

M.S.Ramadas

.. Petitioner

vs.

1.M.Komala

2.S.Devaraj

3.S.Palani

4.J.Santhakumari

5.G.Nalini

6.D.Saraswathi

7.P.Chandra

8.The Sub-Registrar, Konnur.
.. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Order 43 Rule 1 of Civil Procedure Code r/w Section 104 of C.P.C, to set aside the Order and Decreeal Order passed in I.A.No.48 of 2018 in O.S.No.38 of 2017 dated 26.10.2018 passed by the learned III Additional District Judge, Thiruvallur at Poonamallee by allowing the above Civil Miscellaneous Appeal.

For Petitioner : Mr.R.Rajesh
For Respondents : No-appearance

O R D E R

The Fair and Decreeal Order dated 26.10.2018 passed in I.A.No.48 of 2018 in O.S.No.38 of 2017 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the defendant in the suit and the first respondent instituted a suit for partition. Along with suit, the first respondent/plaintiff filed an Interlocutory Application for interim injunction. The trial Court allowed the

application and granted temporary injunction restraining the defendants from putting up construction in the suit property till the disposal of the suit property. Challenging the said interim order, the present appeal is filed.

3. The suit was instituted in O.S.No.38/2017 and all along, the interim injunction granted on 26.10.2018 is in-force till now. In view of the fact that the suit is for partition and in the event of allowing the appellant to proceed with the construction, the same would cause prejudice to the parties to the suit. In order to maintain a balanced approach, this Court is of the opinion that no interference is required as the trial Court considered the facts and circumstances and granted temporary injunction and there is no infirmity as such.

4. This being the factum, the fair and decreetal order dated 26.10.2018 passed in I.A.No.48 of 2018 in O.S.No.38 of 2017 stands confirmed and consequently, the Civil Miscellaneous Appeal stands dismissed. The trial Court is requested to dispose the suit as expeditiously as possible preferably within a period of 10 months from the date of receipt of a copy of this order. Connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssb

To
The learned III Additional District Judge,
Thiruvallur at Poonamallee.

+cc to Mr.K.B.Vivekanandhan.Advocate,Sr.No.1854

C.M.A.No.603 of 2019

RGN(CO)
baf 07/05/2021

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