

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2021

CORAM

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

C.M.A.No.639 of 2015

and

M.P No.1 of 2015

J.Wilfred Prasadh

..Appellant/Petitioner/
Plaintiff

Vs.

1.Joseph

2.C.Chandra David @ Pappu

3.Evanjulin @ Pappi

4.Freeda Jonathan

5.Daniel

6.C.Sathyamoorthy

7.David Chellaiya

..Respondents/Respondent/
Defendant 1 to 6 &12

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC, against the Fair and Decretal order dated 30.01.2014 passed in I.A.No.903 of 2012 in O.S.No.154 of 2012 on the file of the III Additional District and Sessions Court, Salem.

For Appellant : No appearance

For Respondents: No appearance

J U D G M E N T

The Fair and Decretal order dated 30.01.2014 passed in I.A.No.903 of 2012 in O.S.No.154 of 2012 on the file of the III Additional District and Sessions Court, Salem, is under challenge in the present civil miscellaneous appeal.

2. The suit was instituted by the appellant for partition and to appoint a Commissioner to divide the property. Along with the suit, the appellant filed an interlocutory application seeking an interim injunction. The Trial Court declined to grant interim injunction mainly on the ground that the grounds raised in interlocutory application are insufficient to grant an order of interim injunction and the issue sought to be tried and decided finally in the civil suit.

3. The suit was instituted in the year 2012 and is pending without any interim injunction for the past about eight years. Thus, at this length of time, it is not preferable to grant an interim injunction in the civil suit and the balance of convenience required is that the parties are bound to establish their rights to produce documents and adduce evidences.

4. While granting an interim order of interim injunction, the Courts are bound to adopt a pragmatic approach in a balanced manner without causing prejudice to either of the parties to the suit. The principles for grant of interim injunction are though derived by the Courts, the facts and circumstances of each case play a privical role and therefore, the Courts must be cautious while granting interim injunction in favour of the either of the parties.

5. The adjudication on merits raised in the appeal deserves no consideration at this point of time as the suit was instituted in the year 2012 and no interim order is in force for the past about eight years. Thus, it is not preferable to grant any interim injunction at this length of time and the suit is to be decided on merits by affording opportunity to all the parties in the investigation.

6. On account of efflux of time, this Court is not inclined to grant an interim injunction in the suit for partition. Therefore, the parties are at liberty to adjudicate the issues on merits by producing documents and adducing evidences in the suit. Since the suit is pending for eight years, 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 order. The parties to the suit are directed to cooperate for the earlier disposal of the suit. The Trial Court should decline unnecessary adjournments on flimsy grounds if sought for by the parties to the suit. The adjournments sought are to be granted only on genuine grounds and by recording reasons. Thus, the Trial Court is expected to proceed with the case without granting any unnecessary adjournments either at the instance of the parties or by the Courts.

7. Accordingly, the fair and decreetal order passed in I.A.No.903 of 2012 in O.S.No.154 of 2012 dated 30.01.2014, stands confirmed and consequently, C.M.A.No.639 of 2015 stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

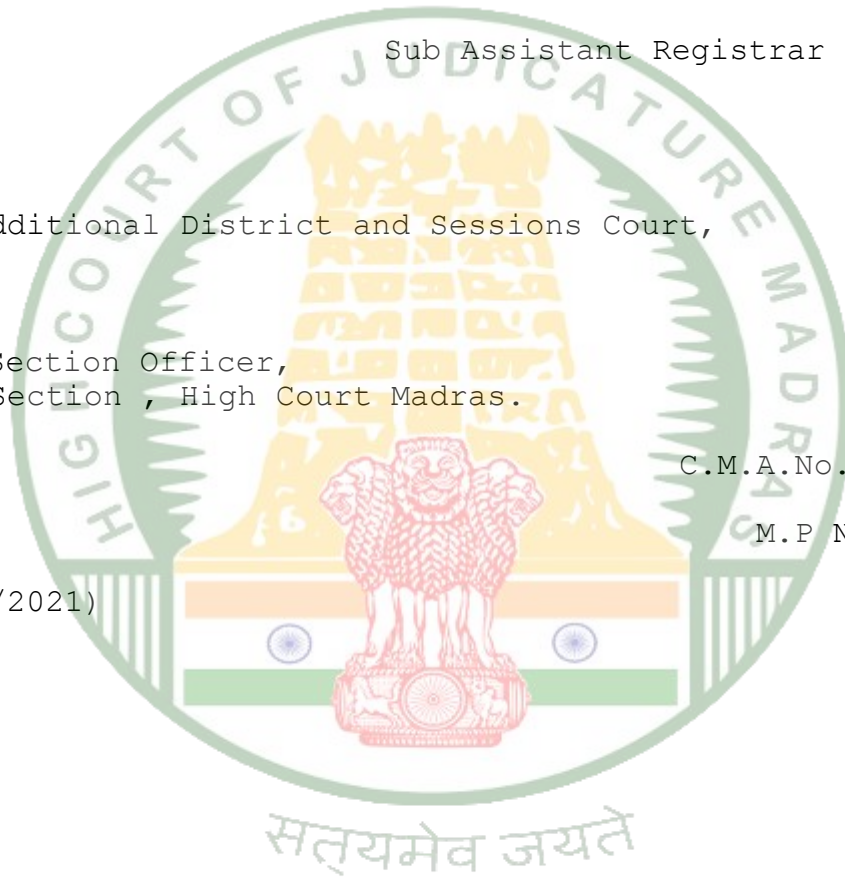
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To
The III Additional District and Sessions Court,
Salem.

Copy To:
The Section Officer,
V.R.Section , High Court Madras.

C.M.A.No.639 of 2015
and
M.P No.1 of 2015

AD(CO)
RMP(25/03/2021)



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