

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.554 of 2016

and

M.P No.4593 of 2016

K.V.Subramaniam

..Appellant

Vs.

1.K.V.Purushothaman

2.K.V.Krishnamoorthy

3.G.Jayalakshmi

4.M/s.Sree Hi-Tech Construction

A partnership firm, rep. by partners

1. Mr.G.Narayana Raja

2. Mrs.N.Praveena

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1 (r) of CPC, to set aside the fair and decreetal order dated 02.03.2016 in I.A No.18 of 2016 in O.S.No.7103 of 2014 on the file of the XVIII Additional City Civil Court, Chennai.

For Appellant : Mr.S.Mohanasundararajan

For Respondents : Mr.N.A.Sukumaran for R1
Mrs.M.Akila for R2
Mr.T.Viswanatha Rao for R4
No Appearance for R3

J U D G M E N T
सत्यमेव जयते

The fair and decreetal order passed in I.A.No.18 of 2016 in O.S.No.7103 of 2014 dated 02.03.2016 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the plaintiff, who instituted the suit to declare the cancellation of settlement deed dated 15.09.2014 as null and void and for decree of partition and separate possession and for permanent injunction. Along with the suit in O.S No.7103 of 2014, the appellant filed an interlocutory application in I.A No.18 of 2016 for interim junction. The trial Court considered the grounds raised by the parties to the

interlocutory application and declined to grant interim injunction. Challenging the said order, the present Civil Miscellaneous Appeal is filed.

3. There is no interim injunction granted at the time of the admission of the present Civil Miscellaneous Appeal. The appeal is pending for the past about 4 years. The suit was instituted by the appellant on 11.12.2014 in O.S No.7103 of 2014. Thus, there is no interim injunction in the suit for the past about 6 years. Thus, granting of an interim injunction at this point of time is not preferable. Contrary, the parties to the suit can adjudicate the matter by producing documents and adducing evidence. On the ground of efflux of time, there is no interim injunction either in the suit or in the present appeal for the past about 6 years. The present appeal challenging the fair order passed in the interlocutory application is also pending without any interim order.

4. This being the factum, the trial Court is directed to dispose of the main suit as expeditiously as possible by affording opportunity to all the parties concerned. Accordingly, this Court is not inclined to consider the grounds raised in the appeal for grant of interim injunction. Thus, the fair and decretal order dated 02.03.2016 passed in I.A No.18 of 2016 in O.S No.7103 of 2014 stands confirmed. Secondly, the present Miscellaneous Appeal No.554 of 2016 stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

The XVIII Additional City Civil Court,
Chennai.

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C.M.A.No.554 of 2016
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GP(CO)
KKV/26/02/2021