

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.01.2021
CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.1797 of 2018

1.M.Vijayarajan
2.H.M.Maheswari

.. Petitioners

vs.

S.Shakila Banu

.. Respondent

PRAYER : Civil Miscellaneous Appeal filed under Order XXXVIII Rule 1(r) of C.P.C, against the Fair and Decreeal Order dated 20.06.2018 in I.A.No.436 of 2018 in O.S.No.07 of 2018 on the file of the Additional District Judge, Fast Track Court No.IV, Bhavani, Erode District.

For Petitioner : No-appearance

For Respondent : No-appearance

O R D E R

The Fair and Decreeal order dated 20.06.2018 passed in I.A.No.436 of 2018 in O.S.No.07 of 2018 is under challenge in the present Civil Miscellaneous Appeal.

2. The plaintiffs are the appellants in the present appeal. The suit was instituted for cancellation of sale deed and for mandatory injunction and permanent injunction. Along with the suit, the appellants/plaintiffs filed an interlocutory application in I.A.No.436 of 2018 for temporary injunction. The trial Court adjudicated the issues on merits and based on the facts and circumstances, the trial Court arrived a conclusion that the *prima facie* case has not been made out by the petitioner and the possession is also not with the petitioner and dismissed the interlocutory application.

3. Courts are bound to consider the *prima facie* case made out by the parties for grant of interim orders. In the present case, the appellants are not in possession and taking note of these factors, the trial Court formed an opinion that all these issues are to be considered on merits in the suit. This apart, the suit was instituted in the year 2018 and no injunction was granted and the suit is pending for the past about two years. At this length of time, this Court is not inclined to grant any interim order and all the issues are to be adjudicated in a full-fledged trial. In view of the fact that the reasons stated by the

trial Court for declining interim order is candid and convincing, this Court is of the opinion that the order deserves no merit interference. Accordingly, the fair and decreetal order dated 20.06.2018 passed in I.A.No.436 of 2018 in O.S.No.07 of 2018 stands confirmed and consequently, the Civil Miscellaneous Appeal stands dismissed. No costs.

4. The trial Court is requested to dispose the suit as expeditiously as possible and preferably within a period of one year from the date of receipt of a copy of this order. The parties to the suit are directed to co-operate for earlier disposal of the suit.

5. The parties to the appeal are restrained from seeking unnecessary adjournments. Adjournments are to be granted only on genuine grounds and by recording reasons. Adjournments on flimsy grounds are to be rejected in limine by all Courts. The parties cannot be given privilege of getting adjournments for their benefit in order to prolong and protract the issues.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Additional District Judge,
Fast Track Court No.IV, Bhavani, Erode District.

+1cc to Mr.SP.Yuaraj, Advocate Sr.No.3965

AKM/25.2.21 /2P-3C/

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