

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.03.2021
CORAM
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
C.M.A.No.1393 of 2020
and C.M.P.No.10164 of 2020

Dr.V.Chandramohan

.. Appellant/Petitioner/Plaintiff

Vs.

1.V.Shanthi
2.Pradeep Kumar
3.B.Pamila

4.LIC Housing Finance Limited
No.461, Vivekanandar Street
Sathy Main Road
Ramakrishnapuram, Ganapathy
Coimbatore.

.. Respondents/Defendants

Civil Miscellaneous Appeal filed under Order XLIII
Rule (1)(r) CPC, against the fair and final order dated
17.12.2019 passed in I.A.No.2 of 2019 in O.S.No.234 of 2019 on
the file of the III Additional District and Sessions Court,
Coimbatore.

For Appellant	:	Mr.A.Thiyagarajan
For RR 1 to 2	:	Left
For R3	:	No appearance
For R4	:	R.S.Anandan

JUDGMENT

The fair and decretal order dated 17.12.2019 passed in
I.A.No.2 of 2019 in O.S.No.234 of 2019 on the file of the III
Additional District and Sessions Court, Coimbatore, in under
challenge in the present civil miscellaneous appeal.

2.The appellant herein is the plaintiff in the suit and the
suit was instituted for cancellation of settlement deed dated
09.08.2008 and for an injunction. Along with the suit I.A.No2 of
2019 was filed to grant an order of interim injunction. The
trial Court considered the issues and made a finding that the
possession in respect of the subject property was handed over
under Section 122 of the Transfer of Property Act that the gift
has been accepted and acted upon and the revenue records have
been changed in favour of the settlee and therefore, the only
option that would be available for the appellant/plaintiff would
be to challenge the settlement deed, since the deed itself

contains the delivery of possession as well as right of the settlee to transfer revenue records in her name. When the settlement deed itself is self-speaking and the conditions in the settlement deed provides rights to the settlee to transfer the revenue records and that was done, the trial Court was not inclined to grant interim injunction, which would affect the rights of the other party, if any, even before completing the adjudication of the issues. Interim injunction can be granted only if a prima facie case is raised or an acceptable and strong apprehension is raised and not otherwise.

3. In the present case, the gift has been accepted and acted upon and the revenue records have been changed in favour of the settlee and therefore, the suit filed to cancel the settlement deed is to be adjudicated with reference to the allegations and counter allegations as well as the issues raised between the parties. Thus, the case at hand is not a case for the grant of interim injunction and the trial Court had rightly concluded and therefore, there is no reason for further interference by this Court. However, the trial Court has to expedite the trial of the suit.

4. Under these circumstances, this civil miscellaneous appeal is dismissed with the following directions:

- i. The fair and decretal order dated 17.12.2019 passed in I.A.No.2 of 2019 in O.S.No.234 of 2019 on the file of the III Additional District and Sessions Court, Coimbatore, stands confirmed;
 - ii. The parties to the suit shall cooperate for early disposal of the suit;
 - iii. Unnecessary adjournments on flimsy reasons are to be avoided and the trial Court need not grant adjournments in a routine manner;
 - iv. Even in case of adjournments on genuine grounds, the trial Court is bound to record the same; and
 - v. The trial Court shall dispose of the suit as expeditiously as possible and preferably within a period of eight months from the date of receipt of a copy of this order.
- Connected C.M.P. is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

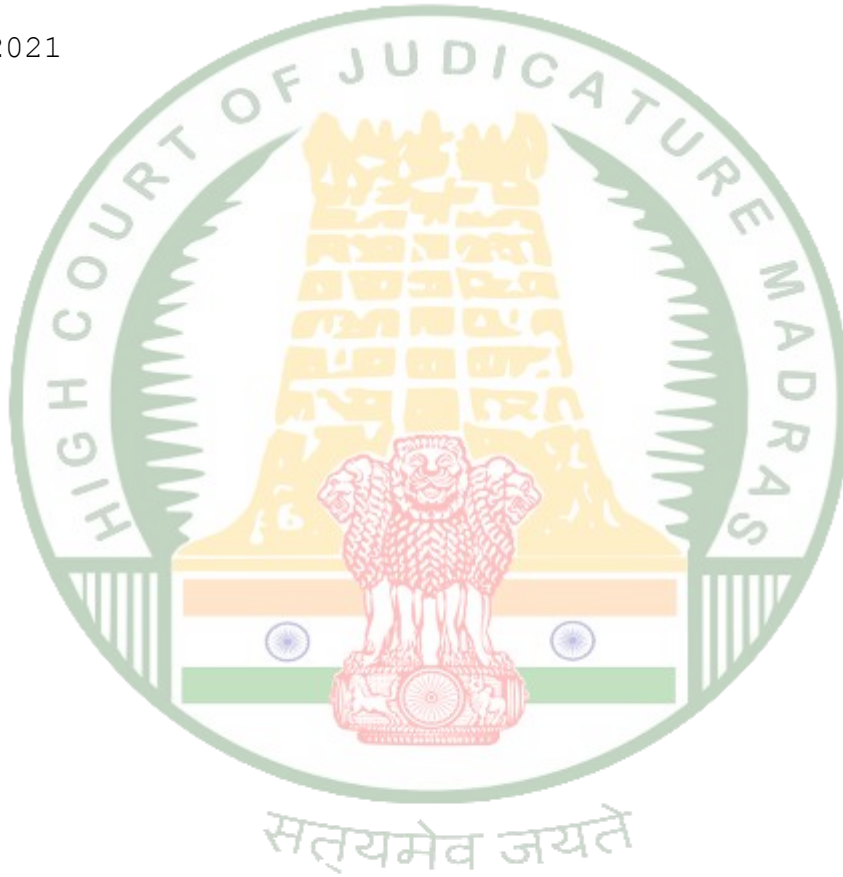
The III Addiitonal District and Sessions Judge,
Coimbatore.

+1cc to Mr.A.Thiyagarajan, Advocate Sr.No.19799

+1cc to Mr.R.S.Anandan, Advocate Sr.No.19379

C.M.A.No.1393 of 2020

SSN(CO)
NR 17/04/2021



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