IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3360 of 2019
C.M.P.No.19618 of 2019

1.D.Anandhakumar

2.G.Radha Priya .. Appellants/Respondents/Defendants 3 & 4

vs.

1.P.Ramkumar(Died)

2.P.Balagopal ... Respondents 1 & 2/Petitioner/Plaintiffs

3.R.Gurukumary

4.R.Sricharan ..3rd & 4th Respondents

RR3 & 4 are brought on record as LR's of the deceased/R1 vide order dated 18.03.2021 made in C.M.P.No.2745 of 2021 in C.M.A.No.3360 of 2019.

PRAYER : Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC, against the Fair and Final order dated 23.04.2019 made in I.A.No.2 of 2019 in O.S.No.8 of 2019 on the file of the V Additional District and Sessions Court, Coimbatore.

For Appellant : Mr.HariPrasath
for M/s.N.Umapathi

For Respondent :R1-Died-Steps Taken
Mr.S.Ramesh for R2
RR3& 4-Not ready in notice

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J U D G M E N T

The Civil Miscellaneous Appeal is filed against the Fair and Final order dated 23.04.2019 made in I.A.No.2 of 2019 in O.S.No.8 of 2019.

2. The defendants in O.S.No.8 of 2019 are the appellants in the present Civil Miscellaneous Appeal. The respondents/plaintiffs instituted a suit in O.S.No.8 of 2019 for

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partition and declaration. Along with the suit, an interlocutory application in I.A.No.2 of 2019 was filed for interim injunction restraining the defendants in the suit from in any way altering the physical features of the petition mentioned property. After adjudication, the interlocutory application for interim injunction was allowed and the injunction is in-force for the past about two years.

3. The learned counsel appearing for the appellant made a submission that the appellants filed another suit in O.S.No.1570 of 2018 initially before the Principal District Munsif Court, Coimbatore and subsequently, the appellant filed a transfer petition which was allowed and the suit was re-numbered as O.S.No.862 of 2019 now pending before the V Additional District Court, Coimbatore. The learned counsel for the appellant made a submission that both the suits are to be tried together and the observations or findings made in the Fair and Decreetal order passed in the interlocutory application impugned shall not affect the merits of the main suit.

4. The learned counsel appearing for the respondent has no serious objection for joint trial of both suits as the parties are one and the same and the subject properties are also connected. Further, the interim injunction already granted is in-force for about two years. However, the findings made for grant of interim injunction shall not affect either of the parties while adjudicating the issues in the main suit.

5. This being the factum, the trial Court is directed to dispose of the suits uninfluenced by the observations made in the order passed in the interlocutory application and based on the documents and evidence produced by the respective parties for adjudication of the issue in the suit.

6. With these observations, the Trial Court is further requested to expedite the trial and dispose of the two suits as expeditiously as possible. Accordingly, the Fair and Decreetal order dated 23.04.2019 made in I.A.No.2 of 2019 in O.S.No.8 of 2019 stands confirmed and consequently, Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

ssb

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To

V Additional District and Sessions Court,
Coimbatore.

+1cc to Mr.N.Umapathi, Advocate, S.R.No. 20612

C.M.A.No.3360 of 2019

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