

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.2846 of 2014
and
M.P Nos.1 & 2 of 2014

A.Sadasivam (since deceased)

1.S.Sumathi
2.S.Priya
3.S.Murali
4.C.Kamalam
5.S.Muthayammal
6.B.Jothi

...Appellants/Plantiffs

Vs.

1.A.Periyasamy
2.P.Valliyannan
3.P.Shankar
4.P.Palaniyandi
5.J.Srinivasan
6.C.Ganesan

...Respondents/Defendants

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC, to set aside the order of the learned II Additional District judge, Salem in I.A.No.232/2013 in O.S.No.220/2013 dated 06.06.2014.

For Appellants : No appearance

For Respondents : No appearance

J U D G M E N T

The Civil Miscellaneous Appeal has been filed as against the order of the learned II Additional District Court, Salem in I.A.No.232/2013 in O.S.No.220/2013 dated 06.06.2014.

2. The appellants are the plaintiffs in the suit. The suit was instituted for partition and for permanent injunction. An interlocutory application was filed in I.A.No.232 of 2013 in O.S.No.220 of 2013 for grant of ad interim injunction against the defendants/respondents from any way alienating or encumbering the suit property. The Trial Court considered the merits in detail and arrived at the conclusion that the grounds raised in the interlocutory application sought to be adjudicated elaborately in the suit and therefore, grant of injunction is not preferable and accordingly, dismissed the interlocutory application in I.A.No.232 of 2013 by order dated 06.06.2014.

Against which, the present appeal has been filed.

3. The contention of the appellants is that the Trial Court has not considered the fact that the suit properties are the ancestral properties of Arumuga Chettiyar and after the life time of one-Palaniyandi Chettiyar, these properties were partitioned by the said Arumuga Chettiyar, Chinna Chettiyar as the sons of Palaniyandi Chettiyar. It is further contended that the defendants had no right over the suit property. The other grounds raised are with reference to the merits of the case set out in the appeal.

4. While granting an interim order of ad 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 2013 and no interim order is in force for the past about seven 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. This being the practical approach to be adopted, this Court is not inclined to interfere with the findings of the Trial Court in declining the grant of ad interim injunction. Accordingly, the fair and decreetal order dated 06.06.2014 passed in I.A.No.232 of 2013 in O.S.No.220 of 2013 stands confirmed.

7. However, 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.

8. In the result, the civil miscellaneous appeal No.2846 of 2014 is dismissed. No costs. Consequently, connected civil

miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

gsk

To
The II Additional District Court, Salem.

Copy To
The Section officer
VR Section
High Court, Madras.

C.M.A.No.2846 of 2014
and
M.P Nos.1 & 2 of 2014

RSI (CO)
NRA (08/03/2021)



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