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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2724 OF 2021

AND

C.M.P.NO.15644 OF 2021

1. Rajan @ Raji
2. Ramesh
3. Vijaya Kumar
4. Palani
5. Muruganandham
6. Arul
7. Kumar
8. Ranjitham

... Appellants/
Defendants 1 to 8

.Vs.

1. Muniappan
2. Kavitha
3. Settu

... Respondents 1 to 3/
Plaintiffs

4. Kamatchi
5. Meenakchi

... Respondents 4 & 5/
Defendants 9 & 10

PRAYER:- Civil Miscellaneous Appeal filed under Order XLIII Rule (1) of Civil Procedure Code, 1908 against the Judgment and Decree dated 06.03.2021 made in I.A.No.1 of 2020 in O.S.No.146 of 2020 by the learned Additional District Judge, Krishnagiri.

For Appellant : Mr.G.Magesh Kumar

JUDGMENT

(This case was heard through Video Conferencing)

This Appeal has been filed challenging the order dated 06.03.2021 passed by the learned Additional District Judge, Krishnagiri in I.A.No.1 of 2020 in O.S.No.146 of 2020.



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2. The Appellants are the defendants 1 to 8 in the suit O.S.No.146 of 2020 on the file of the learned Additional District Judge, Krishnagiri. The respondents 1 to 3 are the plaintiffs 1 to 3 in the suit and the respondents 4 and 5 are the defendants 9 and 10 in the said suit.

3. The suit was filed by the plaintiffs seeking for declaration and interim injunction in respect of the suit schedule property. Admittedly, written statement has also been filed by the defendants in the suit, who are the petitioners herein. During the pendency of the suit IA No.1 of 2020 was filed by the plaintiffs seeking for Ad- interim injunction.

4. The Trial Court has passed the impugned order dated 06.03.2021 in IA No.1 of 2020 in OS No.146 of 2020 in favour of the plaintiffs granting interim injunction as prayed for and has directed the plaintiffs to proceed with the Trial within two months. While passing the impugned order, the Trial Court has observed that on perusal of the documents filed by the petitioners/plaintiffs along with the petition, it reveals that they are in enjoyment of the said property and Patta was also granted in their names. However, as seen from the grounds of Appeal as well as from the written statement filed by the defendants who are the Appellants herein, they have disputed the possession of the suit schedule property of the plaintiffs.

5. The Appellants/defendants have denied the unregistered partition deed which is the basis of the claim of the plaintiff. No useful purpose will be served if this Appeal is taken up for final disposal at this stage when written statement has already been filed by the appellants. In the interest of both the parties to the dispute, if the trial can be expedited, the truth will come out and no prejudice will be caused to any of the parties.

6. The learned counsel for the Appellant would submit that the written statement has already been filed but however, issues have not been framed by the Trial Court.

7. This Court after giving due consideration to the nature of the suit and the interim order passed which is the subject matter of challenge in this Appeal is of the considered view that in the interest of both the parties, a direction can be given to the Trial Court for expeditious disposal of the suit.

8. For the foregoing reasons, this Court directs the Additional District Court, Krishnagiri to frame issues in the suit OS No. 146 of 2020 within a period of three weeks from the date of receipt of copy of this order. On framing of the issues and after trial, dispose of the suit within a period of four



months thereafter.

9. With the aforesaid direction, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

10. It is made clear that the Trial Court shall dispose of the suit uninfluenced by any of the observations made by this Court in this order.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ab/vsi2

To

The Additional District Judge,
Krishnagiri.

+1cc to Mr.G.Magesh Kumar, Advocate, S.R.No.50928

C.M.A.NO.2724 OF 2021 AND
C.M.P.NO.15644 OF 2021

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