



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

O.S.A.No.206 of 2019

A.D.Murugan

.. Appellant

Vs

1.SP.N.Sathyamoorthy

2.S.Kalyanasundaram

.. Respondents

Appeal filed under Order XXXVI Rule 1 of the Madras High Court Original Side Rules against the order dated 30.04.2019 made in O.A.No.338 of 2019 and A.No.3552 of 2019 in C.S.No.230 of 2019.

O.A.No.338 of 2019

Original application praying that this Hon'ble Court be pleased to grant interim injunction restraining the Respondents/ Defendants their men agents servants or anyone acting on their behalf from in any way interfering with the peaceful possession and enjoyment of the property by the Applicant/Plaintiff based on the fabricated documents pending disposal of the suit.

A.No.3552 of 2019

Application praying that this Hon'ble Court be pleased to pass an order to vacate the interim injunction granted by this Hon'ble Court on 01/04/2019 in O.A.No.338 of 2019 in C.S.NO.230 of 2019 with respect to the property which is morefully described in the Judge's Summons.

For Appellant : Mr.K.N.Nataraj

For Respondents : Mr.R.Balachanderan for R1
No appearance for R2



JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant laying a challenge to the grant of interim injunction by the learned Single Judge pending disposal of the suit after hearing the parties at length.

2. The first respondent being the plaintiff filed a suit in C.S.No.230 of 2019 seeking permanent injunction apart from liquidated damages on the premise that he had purchased the property from the first defendant/second respondent before us for a valuable consideration under the registered sale deed dated 10.01.2018. As there is a threat to the dispossession, the interlocutory application was filed.

3. The appellant being the second respondent in the application for injunction filed vacate injunction application, inter alia, contending that he is a tenant of the first defendant apart from having the subsisting agreement for sale.

4. The learned Single Judge while taking note of the other proceedings and the documents filed found that the reliance cannot be made on an unregistered insufficiently stamped rental agreement. Incidentally, it has been held that the documents relied upon by the appellant do not relate to the suit property. Accordingly, the injunction granted earlier was made absolute and consequently the vacate stay application was rejected.

5. Learned counsel appearing for the appellant submitted that he has been dispossessed by the ex-parte order of injunction obtained. The documents would reveal that he was in possession as a tenant.

6. Learned counsel appearing for the first respondent submitted that the appellant has been set up by the second respondent in this appeal. He has given a complaint after executing the sale deed. The said complaint was withdrawn. All those factors have been taken note of by the learned Single Judge while granting injunction.

7. On a perusal of the order of the learned Single Judge, we find that all the relevant materials have been taken into consideration including the documents filed by the appellant. The learned Single Judge rightly did not convince himself with the unregistered and insufficiently stamped lease deed. A factual finding has been given with respect to the documents filed by the appellant which are not connected with the suit property. There is no material to hold that the appellant has been dispossessed after obtaining the interim order before the learned Single Judge.



8. At this stage, we cannot re-appreciate the assessment made by the learned Single Judge particularly, when we do not find any error warranting interference.

9. In such view of the matter, the original side appeal stands dismissed. However, the finding rendered by the learned Single Judge, as affirmed by us, being prima facie in nature, will not have a bearing on the suit. We request the learned Single Judge dealing with the suit to expedite the hearing, preferably, within a period of six months. No costs.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

The Sub-Assistant Registrar,
Original Side,
High Court, Madras.

O.S.A.No.206 of 2019

JP(CO)
BE(16/07/2021)