

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.No.181 of 2017

and

CMP.No.768 of 2017

R.Chellamal

... Petitioner

Vs.

1. Sarojini

2. A.Vijayakumari

.... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and final order dated 09.11.2016 passed in C.M.A.No.28/2015 on the file of 2nd Additional Subordinate Judge, Coimbatore, against the order passed in I.A.No.2022 of 2015 in O.S.No.1362 of 2015 on the file of 1st Additional District Munsif of Coimbatore.

For Petitioner : M/s.V.S.Usha Rani

For Respondents : Notice Served (No Appearance)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in C.M.A.No.28/2015 dated 09.11.2016 on the file of the learned 2nd Additional Subordinate Judge, Coimbatore, reversing the fair and decretal order passed in I.A.No.2022 of 2015 in O.S.No.1362 of 2015 dated 22.09.2015, granting interim injunction till the disposal of the main suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The suit was filed for bare injunction in respect of the suit property. As per the sale deed dated 10.09.1996 executed by one N.P.Thangavel, originally, the property was owned by one V.M.Arumugam comprised in S.F.No.101/1 ad-measuring 2.36 acres situated at Ikkarai Boluvampatty Village. As per the settlement deed dated 02.12.1959 executed by his father, he retained 36 cents and remaining properties ad-measuring 2 acres were sold out to one Murugaian by the sale deed dated 26.07.1985. In turn, he sold out the property in favour of N.P.Thangavel, who is the vendor of the petitioner by the sale deed dated 15.02.1989. From

the date of purchase, the plaintiff is in possession and enjoyment of the suit property. While being so, the respondents attempted to trespass into the suit property on 21.06.2015. Therefore, the petitioner lodged a complaint before the Inspector of Police, Alandurai Police Station. Thereafter, the petitioner was constrained to file the present suit for bare injunction.

3. Though notice was served on the respondents and the name is also printed in the cause list, no one appeared on behalf of the respondents. Heard the learned counsel for the petitioner.

4. The respondents admitted the derivation of title in favour of the petitioner and also the sale deed executed in favour of the petitioner herein. They disputed only the plaint plan and FMB sketch as incorrect. According to them, the plaint plan differs and FMB Sketch was manipulated by the petitioner. As rightly pointed out by the Court below, these allegations have to be gone into by letting evidence during the trial and it can be decided only after full fledged trial. When the petitioner prove his title and possession of the property, they made a prima facie case in their favour and they are entitled for interim injunction till the disposal of the suit. Without

considering the above, the First Appellate Court reversed the order passed by the Court below.

5. In view of the above discussion, this Civil Revision Petition is allowed and the order passed by the First Appellate Court in C.M.A.No.28/2015 09.11.2016 is set aside and the order passed by the Court below is restored. The trial Court is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

26.03.2021

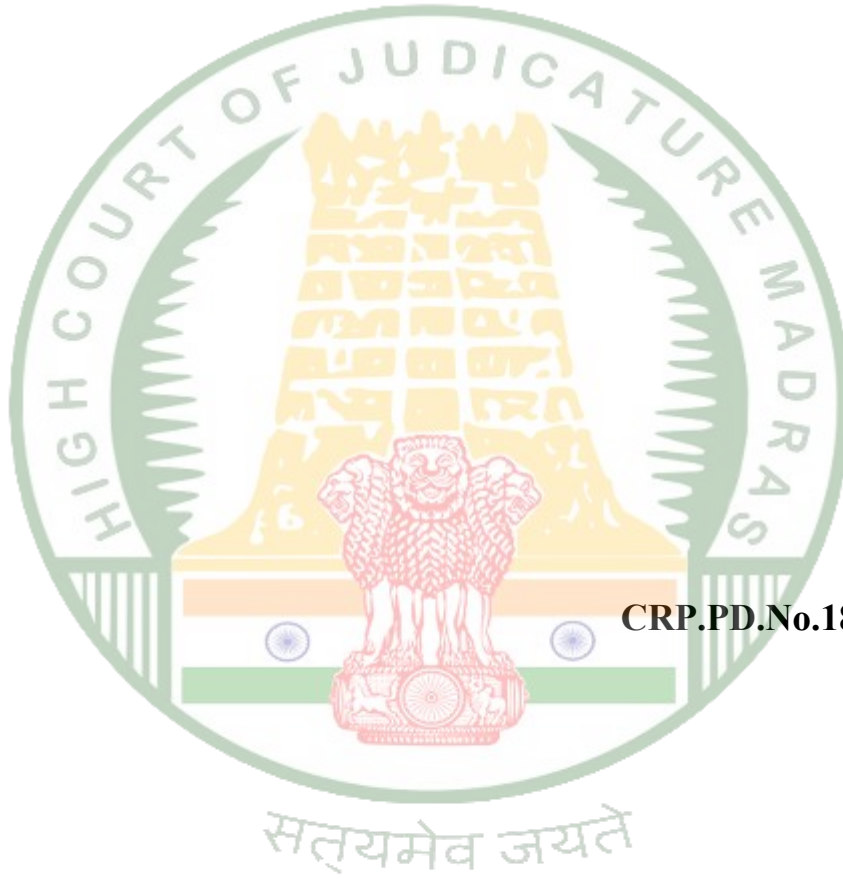
Speaking/Non-speaking order
Index : Yes/No
kv

To

1. The 1st Additional District Munsif of Coimbatore.
2. The Section Officer,
V.R.Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

Kv



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