

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.3503 of 2017
and
C.M.P.No.22257 of 2017

P.Thangavelu

..Appellant

Vs.

P.Veerappan

..Respondent

Prayer : Civil Miscellaneous Appeal filed under Order 43 Rule 1(u) of C.P.C., against the fair and decreetal order dated 07.10.2017 in I.A.No.997 of 2017 in A.S.No.65 of 2017 on the file of the III Additional District and Sessions Judge's Court, Coimbatore.

For Appellant : Mr.C.R.Prasanan

For Respondent : No appearance

J U D G M E N T

The Fair and Decretal order dated 07.10.2017 passed in I.A.No.997 of 2017 in A.S.No.65 of 2017 is under challenge in the present Civil Miscellaneous Appeal.

2. The appellant is the plaintiff, who instituted a suit for Partition. The suit was decreed in favour of the plaintiff and the respondent/defendants filed A.S.No.65 of 2017. Along with the appeal suit, an Interlocutory Application was filed in I.A.No.997 of 2017 for grant of interim injunction. The First Appellate Court granted the interim injunction. Challenging the said order, the present Civil Miscellaneous Appeal is filed.

3. The learned counsel appearing on behalf of the appellant made a submission that by taking undue advantage of the interim order granted in the appeal suit, the respondent/defendants are going on dealing with the property in an illegal manner, causing prejudice to the interest of the appellant. Therefore, the order impugned is liable to be set aside. It is contended that the respondents are filing application for Police Protection and the said application was

rejected by this Court and in spite of that, they are attempting to interfere with the peaceful possession of the appellant in respect of the suit properties.

4. This Court is of the considered opinion that the interim order is in force for the past about 3 years. However, it is made clear that the parties are bound to maintain the Status quo till the disposal of the First appeal.

5. The appeal suit is pending for about 3 years. Under these circumstances, this Court is inclined to direct the First Appellate Court to dispose of the appeal. Accordingly, the First Appellate Court is directed to dispose of the appeal suit in A.S.No.65 of 2017 as expeditiously as possible, preferably within a period of four months from the date of receipt of a copy of this judgment. The parties to the appeal suit are directed to maintain Status quo till the disposal of the appeal suit.

6. With these directions, the Fair and Decreetal order dated 07.10.2017 passed in I.A.No.997 of 2017 in A.S.No.65 of 2017 on the file of the III Additional District and Sessions Judge's Court, Coimbatore, stands modified and accordingly, the Civil Miscellaneous Appeal in C.M.A.No.3503 of 2017 stands allowed in part. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The III Additional District
and Sessions Judge's Court,
Coimbatore.

+1cc to M/s.C.R.Prasanan, Advocate SR.2518

C.M.A.No.3503 of 2017

GP(CO)
CB(29/03/2021)