

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-01-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.4690 of 2019

And

C.M.P.No.26641 of 2019

Siruvalai Mathina Pallivasal by
It's Muthavalli,
Siruvalai Village,
Vikravandi Taluk,
Villupuram District.

..Appellant/Respondent
/18th Defendant

vs.

Shapeeya Bi

..Respondent/Petitioner
/Plaintiff

The Civil Miscellaneous Appeal is preferred under Order 43 Rule 1 of Code of Civil Procedure, against the order and decretal order dated 16.10.2019 passed in IA No.376 of 2019 in O.S.No.187 of 2019 by the learned Principal District Judge, Villupuram.

For Appellant : Mr.P.Sankaranarayanan
For Respondent : Mr.K.Krishnan

J U D G M E N T

The fair and decretal order dated 16.10.2019 passed in I.A.No.376 of 2019 in O.S.No.187 of 2019 by the learned Principal District Judge, Villupuram, is under challenge in the present Civil Miscellaneous Appeal.

2. The 18th defendant is the appellant and the first respondent instituted a suit for declaration and injunction. Along with the suit, an Interlocutory Application in I.A.No.376 of 2019 was filed by the plaintiff, seeking an order of interim injunction. The Trial Court granted an order of interim injunction based on the facts and circumstances.

3. The Trial Court was of the opinion that a prima facie case was made out by the plaintiff and accordingly, granted an order of interim injunction.

4. The 18th defendant filed the present Civil Miscellaneous Appeal on the ground that the Mosque is under construction and in the event of continuance of the interim injunction, people may not be in a position to start their worship in the Mosque, which is an incomplete building.

5. This Court is of the considered opinion that a balanced and pragmatic approach is required for the purpose of grant of order of interim injunction.

6. Suit is for declaration and permanent injunction. The 18th defendant is impleaded as a party in the original suit. The plaintiff claims that she is having the title over the suit property. Under these circumstances, the Trial Court granted interim injunction not to put up any construction till the disposal of the suit.

7. This Court is of the considered opinion that pending dispute if the constructions are allowed to be progressed, then the same would cause prejudice to either of the parties. If the appellant in the present Civil Miscellaneous Appeal spent huge amounts and completed the building, then it would be very difficult to mitigate the circumstances. Contrarily, the appellant can wait for some more time till the disposal of suit, so that the rights of the parties to the suit can be crystallised by conducting a full-fledged trial.

8. This being the balanced approach to be adopted, vacating the interim order of injunction granted by the Trial Court, at this point of time, is not preferable. Contrarily, the Trial Court may dispose of the same as expeditiously as possible in the interest of the parties to the suit.

9. Accordingly, the fair and decretal order dated 16.10.2019 passed in I.A.No.376 of 2019 in O.S.No.187 of 2019 by the learned Principal District Judge, Villupuram stands confirmed. However, the Trial Court is directed to dispose of the suit as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this judgment. The parties to the civil suit are directed to co-operate for the early disposal of the suit. The Trial Court shall not grant unnecessary adjournments at the instance of the parties. Even if the matter is to be adjourned on genuine grounds, reasons are to be recorded.

10. With the above observations, CMA No.4690 of 2019 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(L.A)

//True Copy//

Sub Assistant Registrar

Svn

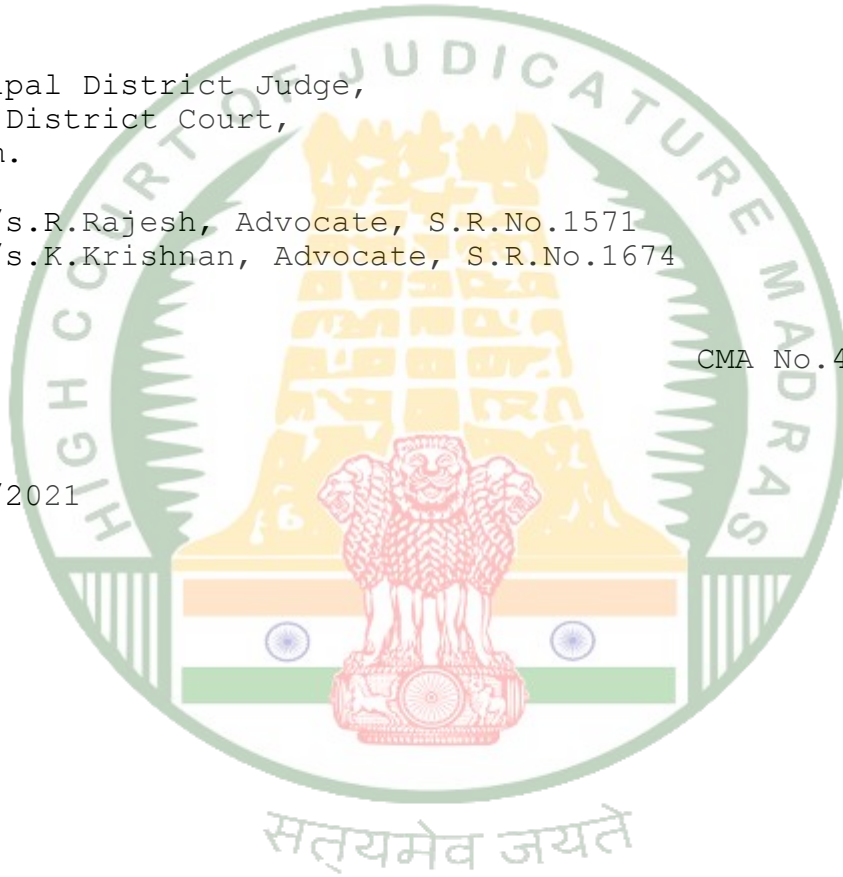
To

The Principal District Judge,
Principal District Court,
Villupuram.

+1cc to M/s.R.Rajesh, Advocate, S.R.No.1571
+1cc to M/s.K.Krishnan, Advocate, S.R.No.1674

CMA No.4690 of 2019

SRA (CO)
KKV/17/03/2021



WEB COPY