

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 04.02.2021
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
C.M.A.Nos.2341 & 2342 of 2018 and
C.M.P.Nos.946 of 2019, 17888 & 17891 of 2018

1.P.Muthukannabiran
2.M.Pushpavathy @ Pushpanjali
3.M.M.G.Anandhi
rep by power Agent M.Pushpavathy @ Pushpanjali

... Appellants/Respondents/
Defendants in both C.M.As
Vs.

1.M.M.D.Abirami Lingeswari

2.ICICI Bank,
Rep by its Manager,
Main Branch, Avinashi Road,
Tiruppur.

... Respondent/Petitioners/
Plaintiffs in both C.M.As

Prayer in both C.M.As : Civil Miscellaneous Appeal filed under Order 43 Rule 1(r) of C.P.C., against the fair and decreetal order dated 28.04.2018, made in I.A.Nos.33 & 34 of 2018 in O.S.No.9 of 2018 on the file of the II Additional District Judge, Coimbatore.
In both C.M.As

For Appellants : Mr.S.Mukunth for
M/s.Sarvabhauman Associates
For Respondents : Mr.R.Jayaprakash for R1
NA for R2

C O M M O N J U D G M E N T

The fair and decreetal order dated 28.04.2018 passed in I.A.Nos.33 & 34 of 2018 in O.S.No.9 of 2018 is under challenge in the present civil miscellaneous appeals.

2. The defendants are the appellants and the first respondent instituted the suit for partition and for declaration. Along with the suit, interlocutory applications in I.A.Nos.33 and 34 of 2008 were filed by the plaintiff for interim injunction. The Trial Court elaborately adjudicated the issues and granted an interim order of injunction in favour of the plaintiff pending disposal of the suit. Challenging the said interim order, the present appeals are filed.

3. This Court is of the considered opinion that the suit is for partition and declaration. The original suit was instituted in O.S.No.9 of 2018 and the impugned order granting

interim injunction in I.A.Nos.33 &34 of 2008 was passed on 28.04.2018. The interim order granted by the Trial Court was in force for 2 ½ years. The nature of the interim order passed by the Trial Court is restraining the defendants from alienating the property. Therefore, the rights of the parties are protected and in the event of permitting any such alienation, the same would affect the interest of either of the parties and therefore, the Trial Court has rightly adopted a balanced approach and granted the interim order.

4. On account of efflux of time and due to the fact that the interim order granted is in force for 2 ½ years, this Court is not inclined to consider the other grounds raised in the present appeals. However, the suit is to be disposed of as early as possible since it is pending for more than 2 ½ years.

5. Accordingly, the fair and decreetal order dated 28.04.2018 passed in I.A.Nos.33 and 34 of 2018 in O.S.No.9 of 2018 stands confirmed. C.M.A.Nos.2341 and 2342 of 2008 stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

6. The Trial Court is directed to dispose of the suit as expeditiously as possible and preferably within a period of one year from the date of receipt of a copy of this order. The parties to the suit are directed to cooperate for the earlier disposal of the suit. The Trial Court should decline unnecessary adjournments on flimsy grounds if sought for by the parties to the suit. The adjournments sought are to be granted only on genuine grounds and by recording reasons. Thus, the Trial Court is expected to proceed with the case without granting any unnecessary adjournments either at the instance of the parties or by the Courts.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gsk

To
The II Additional District Judge,
Coimbatore.

+2cc to Mr.Sarvabhauman Associates, Advocate,SR.No.6242, 6241
+2cc to Mr.R.Jayaprakash, Advocate, S.R.No. 6174 & 6175

C.M.A.Nos.2341 & 2342 of 2018 and
C.M.P.Nos.946 of 2019, 17888 & 17891 of 2018

GP (CO)
GN(16/03/2021)