



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Thirty First day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.SUBRAMANIAN

CMP(MD) No.847 of 2021

IN

SA(MD) No.67 of 2021

THE HEADMASTER,
ST.JOHN'S HIGHER SECONDARY SCHOOL,
PALAYAMKOTTAI,
TIRUNELVELI-627 002.

... PETITIONER/APPELLANT

Vs

P.S.CHANDRASEKARARAJA

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to suspend the injunction granted by the Judgment and Decree dated 05.08.2020 passed in A.S.No.142 of 2019 before the Honourable Additional Sub Court, Tirunelveli confirming the Judgment and Decree dated 22.10.2019 passed in O.S.No.277 of 2011 on the file of Principal Disrict Munsif, Tirunelveli, pending disposal of the above SA(MD)No.67 of 2021.

Prayer in SA(MD)No.67/2021 :

To set aside the Judgment and Decree dated 05.08.2020 passed in A.S.No.142 of 2019 before the Additional Sub Court, Tirunelveli confirming the Judgment and Decree dated 22-10-2019 passed in O.S.No.277 of 2011 on the file of Principal District Munsif, Tirunelveli.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.G.PRABHU RAJADURAI, Advocate for the petitioner, the Court made the following order:-

The petitioner seeks suspension of the decree for injunction that was granted in O.S.No.277 of 2011. The respondent sued for injunction in respect of 10 cents of land said to be situate within specific boundaries. The suit was resisted by the defendant contending that the said land as described in the plaint is not available in the entire suit Survey Number, namely TS.No.59/1, forms



part of the playground of the respondent school. The suit property has been described in the plaint as 10 cents of land, within four specific boundaries.

2.The location of the suit property as claimed by the plaintiff has been denied in the written statement. The plaintiff had produced two sale deeds of the year 2003 and 2004, to establish his title. But no document has been produced by the plaintiff to show his possession. Though the land is said to be vacant and the principle of law that possession follows title could be applied, in the light of the specific stand taken by the defendant that the land in question form part of the area 26 acres and the same is being used as a playground by the School. I do not think that the respondents' possession could be presumed.

3.No doubt, it is stated in the counter affidavit that the interim injunction was granted pending suit and no stay application was filed by the appellant pending appeal.

4.Considering the nature of the appeal and the questions of law, I am of the opinion that the decree for injunction has to be suspended pending appeal.

5.Hence, this CMP(MD) No. 847 of 2021 will stand allowed. The decree for permanent injunction will remain suspended till the disposal of the appeal.

sd/-
31/03/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE ADDITIONAL SUBORDINATE JUDGE, TIRUNELVELI.
2. THE PRINCIPAL DISTRICT MUNSIF, TIRUNELVELI,

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-2834[I] dated 01/04/2021)

ORDER
IN
CMP(MD) No.847 of 2021
IN
SA(MD) No.67 of 2021
Date :31/03/2021

vrn
JM/VR/SAR IV/22.04.2021/2P/4C

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