



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

Friday, the Twenty Ninth day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

C.M.P. (MD) Nos.7017, 7019 & 7020 of 2021
in
A.S. (MD) Nos.221 & 222 of 2021

C.M.P. (MD) Nos.7017 & 7019 of 2021 in A.S. (MD) No.221 of 2021:

1 CHELLAMMAL
2 KANIMOZHI
REP.BY HER POWER AGENT
R.MANIVANNAN

... PETITIONERS/ APPELLANTS
in C.M.P. (MD) Nos.7017 & 7019 of 2021
in A.S. (MD) No.221 of 2021

Vs

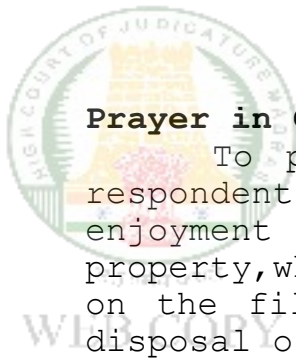
1 VIVEK
2 SENTHILPANDIAN
3 THE SUB-REGISTRAR,
THALLAKULAM SUB-REGISTRAR OFFICE,
TNAU NAGAR, RAJAGAMBEERAM,
THIRUMOGUR ROAD,
MADURAI NORTH TALUK,
MADURAI DISTRICT.

... RESPONDENTS/ RESPONDENTS
in C.M.P. (MD) Nos.7017 & 7019 of 2021
in A.S. (MD) No.221 of 2021

Prayer in CMP(MD) . 7017/ 2021 :

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order of interim injunction restraining the 1st respondent from alienating or encumbering the petition mentioned properties, which is the subject matter of the suit in O.S.No.12/2015 on the file of the 4th Additional District Court, Madurai pending disposal of the appeal.

ENCL: Xerox Copy of Schedule of Property



Prayer in CMP(MD) . 7019/ 2021 :

To pass an order of interim injunction restraining the 1st respondent from interfering with the peaceful possession and enjoyment of the petitioners in respect of the petition mentioned property, which is the subject matter of the suit in O.S.No.12/2015 on the file of the 4th Additional District Court, Madurai pending disposal of the appeal.

ENCL: Xerox Copy of Schedule of Property

Prayer in AS(MD) . 221/ 2021 :

To set aside the Judgment and decree passed in O.S.No.12/2015 dated 07.07.2021 on the file of the 4th Additional District Court, Madurai by allowing this appeal and thus render justice.

C.M.P. (MD) Nos.7020 of 2021 in A.S. (MD) No.222 of 2021:

1 CHELLAMMAL
2 KANIMOZHI

... PETITIONERS/ APPELLANTS

Vs

VIVEK

... RESPONDENT/ RESPONDENT

Prayer in CMP(MD) . 7020/ 2021 :

To stay the operation of the judgment and decree passed in the suit in O.S.No.224/2017 dated 07-07-2021 on the file of the 4th Additional District Court, Madurai pending disposal of the appeal and thus render justice.

Prayer in AS(MD) . 222/ 2021 :

To set aside the Judgment and decree passed in O.S.No.224/2017 dated 07-07-2021 on the file of the 4th Additional District Court, Madurai by allowing this appeal and thus render justice.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.H.ARUMUGAM, Advocate for the petitioners in all the petitions, the court made the following order:-

Heard the learned counsel appearing for the appellants and the learned Senior counsel appearing for the respondents.

2. These two appeals arise out of two suits. Chellammal first appellant executed a deed of settlement in favour of her cousin's brother, namely, Vivek. Later, she cancelled the said settlement and executed a settlement deed in favour of her daughter, namely,



Kanimozhi. Based on the settlement deed executed in favour of Kanimozhi, the suit was filed for declaring her title and possession over the suit property. Vivek likewise filed O.S.No.399 of 2014 before the District Munsif, Madurai and later, it was renumbered as O.S.No.224 of 2017 before the IV Additional District Judge, Madurai, seeking declaration that the cancellation of the settlement deed made in his favour is null and void. Based on the settlement executed in favour Kanimozhi, the mother and daughter filed O.S.No.12 of 2015 on the file of IV Additional District Judge, Madurai, seeking the relief of declaration that the settlement executed in favour Vivek was sham and nominal and for permanent injunction.

3. Both the suits were heard and tried together. The suit filed by Vivek was decreed, while the suit filed by Chellammal and Kanimozhi was dismissed. Aggrieved by the same, these two first appeals have been filed.

4. The appellants have filed as many as three civil miscellaneous petitions, seeking various interim reliefs. I am not inclined to grant stay. It is admitted that the suit property is a vacant site. The appellant Chellammal in her testimony had admitted that the suit property is not in possession of any party. As rightly pointed out by the learned Senior counsel appearing for the respondents, in the case of vacant site, possession will follow title. The trial Court has given declaration that Vivek is presently having title over the suit property in view of the execution of the settlement deed in his favour by Chellammal.

5. In these circumstances, I restrain the first respondent Vivek from causing any further encumbrance over the suit property. C.M.P.(MD)No.7017 and 7019 of 2021 are allowed. C.M.P.(MD)No.7020 of 2021 is dismissed.

sd/-

29/10/2021

/ TRUE COPY /

/ /2021

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

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

THE 4TH ADDITIONAL DISTRICT JUDGE,
MADURAI.

+1. C.C. to M/S.H.ARUMUGAM Advocate SR.No.7751

+1CC TO Mr.K.PERIYASAMY, ADVOCATE, SR NO.7698

ORDER IN

C.M.P. (MD) Nos.7017, 7019 & 7020 of 2021
in

A.S. (MD) Nos.221 & 222 of 2021

Date :29/10/2021

PMU

MS/VR/SAR-1/17.11.2021/4P.4C