



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2022

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CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

C.M.A.No.3510 of 2017

and

C.M.P.No.22343 of 2017

1. K.Srirengan
2. S.Velusamy
3.S.Selvakumar
4.K.S.Senthil

...Appellants/Petitioner/Plaintiff
Vs.

1. K.Mohan
2.M.Sundareswaran
3.M.Sangameswaran
4.M.Sathiyasri
5.M.S.P.Mohanaselvan
6.P.K.Velumani
7.P.V.Selvi

...Respondents/Respondent/Respondent

Prayer: The Civil Miscellaneous Appeal is filed under Order XLIII Rule 1 (12) of C.P.C., seeking to set aside the fair order and decretal order dated 18.09.2017 passed in I.A.No.2 of 2016 in O.S.No.3 of 2016 on the file of the learned Additional District Judge, Fast Track Court IV, Bhavani, Erode District, allow the same with costs.

For Appellants : Mr.Shangar Murali
For R1 to R4 : Mr.M.Mariappan
For R6 & R7 : Mr.N.Chinnaraj

JUDGMENT

The Civil Miscellaneous Appeal has been filed questioning the Order dated 18.09.2017 in I.A.No.2 of 2016 in O.S.No.3 of 2016, pending on the file of the Additional District Court/Fast Track Court No.IV, Bhavani, Erode District.

2.The plaintiffs are the appellants herein. They had preferred the aforementioned Interlocutory Application under Order XXXIX Rule 1 and 2 and Section 151 of the Code of Civil



Procedure seeking interim injunction restraining the respondents herein/defendants in the suit from interfering with the peaceful and enjoyment of the suit properties till the disposal of the suit.

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3. There are two items in the suit properties. The first item was land measuring to an extent of 4.02 acres along with half share in the well in R.S.No.770/2 part, 762/2, 762/3 part and 769/1 part in Bhavani Taluk, Erode District and the second item of the suit property was also land measuring to an extent of 2.30 acres in R.S.No.770/2 part, 769/1 part bearing Door No.629 A and also 21 shops and godown bearing Door No.609 and 629 in Bhavani Taluk, Erode District.

4. By the Judgment dated, 18.09.2017, the learned Additional District Judge had dismissed I.A.No.2 of 2016, necessitating filing of the present Civil Miscellaneous Application.

5. I am informed that the plaintiffs have commenced tendering evidence before the Trial Court. As a matter of fact the evidence on the side of the appellants/plaintiffs herein had been completed. The witnesses have also been cross examined. The suit is now posted for evidence on the side of the respondents/defendants. In view of that particular development, it is only appropriate that the learned Additional District Judge, Bhavani, Erode continues with the recording the evidence on the side of the defendants and proceeds further on the main issues framed in the suit itself.

6. Pendency of the Civil Miscellaneous Appeal or examining the order challenged herein whether the order under appeal is to be reappreciated or revisited, would be a futile exercise since parties have decided to graze the witness box and adduce evidence in the main suit. Therefore, the Civil Miscellaneous Appeal is dismissed, without entering into a discussion on merits on the contentions raised by either side. Let the trial proceed in manner known to law. No order as to costs. Consequently, the connected miscellaneous petition also closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



To
1. The Additional District Judge
Fast Track Court No.IV
Bhavani, Erode District

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Copy to
The Section Officer,
VR Section,
Madras High Court.

+1 CC to Mr.E.C. Ramesh, Advocate sr 15938.

C.M.A.No.3510 of 2017

BS (CO)
SP(16/05/2022)