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CRP (PD) No.2447 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.R.P (PD) No.2447 of 2016
and C.M.P.No.12679 of 2016

Sengodan

... Petitioner

Vs.

1. Manikkammal
2. Lakshmi
3. Pachiyappan
4. Venkatachalam
5. Chinnapappaal
6. Nallasenadhipathi
7. Vasu
8. Shanmugam
9. Loganathan
10. Poongodhai
11. Manimegalai
12. Pazhanisamy

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the fair and final order and decree passed in C.M.A.No.3 of 2013 dated 03.06.2016 by the Subordinate Judge, Gobichettypalayam, Erode, confirming the fair order and decree passed in I.A.No.366 of 2013 in O.S.No.88 of 2013 on the file of the District Munsif, Gobichettypalayam, dated 16.09.2013.



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For Petitioner : M/s.S.Ramesh Kumar

For Respondents : M/s.V.P.K.Gowtham

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ORDER

The Civil Revision Petition has been filed by the defendant against the fair and decreetal order passed in C.M.A.No.3 of 2013 by the Subordinate Judge, Gobichettypalayam, dated 03.06.2016 confirming the fair and decreetal order passed in I.A.No.366 of 2013 in O.S.No.88 of 2013 passed by the District Munsif, Gobichettypalayam, dated 16.09.2013.

2. Heard M/s.S.Ramesh Kumar, learned counsel appearing for the petitioner and M/s.V.P.K.Gowtham, learned counsel appearing for the respondents.

3. The respondents/plaintiffs filed a suit seeking for the relief of permanent injunction against the petitioner/defendant. Pending the suit, I.A.No.366 of 2013 was filed by the plaintiffs seeking for the relief of interim injunction. This application was allowed by the District Munsif, Gobichettypalayam, through order dated 16.09.2013. Aggrieved by the same,



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the defendant filed an appeal before the Subordinate Court, Gobichettypalayam, in C.M.A.No.3 of 2013 and the Lower Appellate Court through order dated 03.06.2016 confirmed the order passed by the trial Court. Aggrieved by the same, the present Civil Revision Petition has been filed before this Court.

4. The main ground that was urged by the learned counsel appearing for the petitioner is that the petitioner is a joint owner of the suit property and the same is evident from the documents filed before the Court below and hence, the order of injunction cannot be passed against a co-owner. Therefore, according to the learned counsel for the petitioner, the order passed by the Court below suffers from perversity.

5. In the considered opinion of this Court, when the Civil Revision Petition was entertained by this Court on 23.08.2016 an interim order was passed by this Court and the same continues till date. If this Court goes into the merits of the case, it will have a direct bearing while the suit is deal with the same on merits. Therefore, this Court refrains to go into the merits of the case and it is left open to both sides to raise all the grounds before the Court below which will be dealt with on its own merits and in accordance with law. It will



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suffice if the interim order passed by the Court below is continued till the disposal of the suit. This Court will also direct the suit to be disposed of within a time frame fixed by this Court.

6. In view of the above, the Civil Revision Petition is disposed of with a direction to the District Munsif, Gobichettipalayam, to dispose of the suit in O.S.No.88 of 2013 within a period of three months from the date of receipt of a copy of this order. The District Munsif, Gobichettipalayam, shall submit a compliance report after completion of the suit within the time frame fixed by this Court. The present *status quo* shall be maintained till the disposal of the suit. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

08.12.2022

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To

1. The Subordinate Judge, Gobichettypalayam, Erode.
2. The District Munsif, Gobichettypalayam.



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N.ANAND VENKATESH, J.

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