



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.644 of 2018

and

CMP.No.5784 of 2018

1.S.Visalakshi
2.S.Leelavathi
3.S.Vahini

...Appellants/
Defendants 6-8/Respondent 1 to 3

v.

1.R.C.Sekar

...1st Respondent/4th defendant/
petitioner

2.M.Venkatesh

(The other defendants in the suit are
not impleaded by the 1st respondent
herein in his I.A.)

... 2nd Respondent/
12th defendant/4th Respondent

Civil Miscellaneous Appeal filed under Section 104 read with
Order 43 Rule 1(S) of CPC, against the fair and decreetal order
dated 05.04.2013 in I.A.No.309 of 2013 in O.S.No.18 of 2012 on
the file of the Principal District Court, Krishnagiri.

For Appellants	: Ms.Nirmala for Mr.D.Shivakumaran
For R2	: Mr.Bharathkumar for Mr.V.Nicholas

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging
the order dated 05.04.2013 in I.A.No.309 of 2013 in O.S.No.18 of
2012 on the file of the Principal District Court, Krishnagiri.

2.Heard Ms.Nirmala for Mr.D.Shivakumaran learned counsel for
the appellants and Mr.Bharathkumar, learned counsel for the 2nd
respondent.

3.It must be deeply appreciated that Mr.Bharathkumar,
learned counsel who represented on behalf of the 2nd respondent



had been extremely fair in pointing out an order passed by my learned brother dated 06.01.2021 in CMA.No.2853 of 2013. That particular Civil Miscellaneous Appeal had been filed by the defendants 9, 10 and 11 in O.S.No.18 of 2012 on the file of the Principal District Court, Krishnagiri, questioning an order in I.A.No.309 of 2013 which order was dated 05.04.2013. In that Civil Miscellaneous Appeal, the learned Single Judge, after entering into the discussion on the merits had allowed the Civil Miscellaneous Appeal and had set aside the order in I.A.No.309 of 2013.

4.Ms.Nirmala, learned counsel who appeared on behalf of the appellants, also took advantage of that particular order and urged that since CMA.No.2853 of 2013 had been allowed on an appeal filed by the defendants 9, 10 and 11, the same advantage should also accrue to the present appellants who are none other than the defendants 6, 7 and 8 in the very same suit in O.S.No.18 of 2012 and the present Civil Miscellaneous Appeal had also been filed assailing the order in I.A.No.309 of 2013 dated 05.04.2013 passed by the Principal District Judge, Krishnagiri.

5.To elaborate the facts, the suit in O.S.No.18 of 2012 had been filed for partition and separate possession and also for mandatory injunction, and it must be stated that I.A.No.309 of 2013 had been filed for appointment of a receiver to collect the rents from the suit schedule property. The Trial Court had appointed a receiver to collect the rents. However, as stated, a learned Single Judge had interfered with such appointment and had set aside the order in I.A.No.309 of 2013.

6.Therefore, no further discussion is required. The Civil Miscellaneous Appeal is allowed. The order dated 06.01.2021 in CMA.No.2853 of 2013 would also accrue to the present appellants who are none other than the defendants 6, 7 and 8 and the order dated 05.04.2013 in I.A.No.309 of 2013 passed by the Principal District Judge, Krishnagiri, is set aside. No order as to costs. Consequently, connected Civil Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

smv



To:-

The Principal District Judge,
The Principal District Court, Krishnagiri

+1cc to Mr.V.Nicholas, Advocate, S.R.No.17595

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SRA (CO)
CT 26/05/2022