

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1269 of 2022

&

C.M.P.No.9236 of 2022

1.S.Thiyagarajan

2.S.Kannadasan

...Appellants

Vs

1.M.Geetha

2.Minor M.Vignesh
(represented by his mother
and natural Guardian 1st Respondent
M.Geetha)

3.P.M.Sudarsan

4.S.Muralikrishnan

5.A.Anusuya

6.A.Sathya

7.A.Ganesan

8.Gabriel Associates Rep. by
Its Partner S.Muthukumar,
S/o. Swaminathan,
Plot No.83, Hariharan Castle,
Visalakshi Street,
Sammandham Nagar,
Kundrathur,
Chennai - 600 069.

9.Gabriel Associates Rep. by
Its Partner S.Stanley Raajan,
S/o.Sydney Gabriel,
4, Surendra Nagar 1st Cross, 2nd St.,
Adambakkam,
Chennai - 600 088.

10.The Sub Registrar,
Neelangarai,
Sub Registrar Office,
Neelangarai,
Chennai.

11.The District Collector,
Collectorate,
Chengalpattu,
Kanchipuram District.

...Respondents

Prayer: Civil Miscellaneous Appeal is filed under Order 43 Rule 1 (R) of the Civil Procedure Code against the order granting interim injunction dated 26.11.2021 made in I.A.No.4 of 2021 in O.S.No.511 of 2021 on the file of the Principal District and Sessions Court, Chengalpattu.

For Appellant : Mr.N.Manoharan.

JUDGEMENT

The respondents 6 and 7 / defendants 6 and 7 are the appellants before this Court challenging the ad interim injunction granted in I.A.No.4 of 2021 in O.S.No.511 of 2021 on the file of the Principal District and Sessions Court, Chengalpattu.

2. The suit has been filed by the respondents 1 and 2 seeking a partition of their 1/6th share in the suit properties and for an injunction restraining the defendants therein from alienating the suit properties. Pending the suit, plaintiffs have taken out an interim application in I.A.No.4 of 2021 for an ad interim injunction restraining the defendants from interfering with their peaceful possession and alienating the suit schedule properties.

3. The learned Principal District and Sessions Judge, Chengalpattu had granted ex parte ad interim injunction on 26.11.2021 and the suit was posted for hearing on 04.01.2021. The appellants herein had been served and they had filed a counter on 04.01.2022 itself. The matter thereafter listed on 23.03.2022 for enquiry. At this stage, that the present Civil Miscellaneous Appeal has been filed. The records would show that the appellants herein have filed a written statement and also a counter to the impugned petition, on 04.01.2022 itself.

4. The counter has been filed by the 7th respondent therein which has been adopted by respondents 1 to 6. After filing of the counter, the present Civil Miscellaneous Appeal has been filed on 06.06.2022. Having filed their counter before the Trial Court, the appellants ought to have proceeded with arguing the impugned application and not rushed to the Court by filing this appeal. For this reason, the Civil Miscellaneous Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

5. The appellants are directed to workout their remedy before the Trial Court, where they have already filed their counter. Since the counter of all the parties is on file, the learned Principal District and Sessions Judge, Chengalpattu shall proceed to dispose of the application as expeditiously as possible, at least within a period of 15 days from the date of receipt of a copy of this order, since the provisions of Order XXXIX Rule 3 A of the Code of Civil Procedure mandates that the Court shall dispose of the injunction application within 30 days from the date on which the injunction is granted.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

kan

To,

The Principal District and Sessions Court,
Chengalpattu.

+1cc to Mr.N.Manoharan, Advocate SR. No. 36281

C.M.A.No.1269 of 2022

GPL (CO)
PR (13/07/2022)