



WEB COPY

C.M.A.No.1614 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.07.2023

CORAM:
THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1614 of 2022

V.Parimalam

...Appellant

Vs.

1.D.Soundararajan

2.Chinni @ Chinnasamy

...Respondents

PRAYER : The Civil Miscellaneous Appeal is filed under Order 43 Rule 1 of CPC., against the fair and decreetal order dated 11.04.2022 in I.A.No.2 of 2021 in O.S.No.254 of 2022 on the file of the Additional District Judge, Krishnagiri.

For Appellant : M/s.S.Agalya

For Respondents : Mr.M.Suresh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/plaintiff challenging the order dated 11.04.2022 in I.A.No.2 of 2021 in O.S.No.254 of 2022 on the file of the Additional District Judge, Krishnagiri.



2. The brief facts of the case is as under:

The appellant filed a suit for declaration and for permanent injunction against the respondents, in respect of 2.77 acres in Pollupalli Village, Krishnagiri Taluk and District. She has also filed an application for interim injunction, restraining the respondents from trespassing into the said suit land and disturbing her peaceful possession. In the petition for injunction, the appellant stated that though she had purchased an extent of 2.27 acres by virtue of sale deed dated 29.05.1998 the boundaries mentioned in the documents would suggest that she is in possession of 2.77 acres; and that the boundaries will prevail over the extent and prayed for injunction.

3. The respondents herein filed a counter resisting the said petition stating that the appellant had purchased only 2.27 acres by virtue of sale deed dated 29.05.1998; that the suit is filed for declaration for 2.77 acres which is not maintainable and the remaining 50 cents is in possession of the respondents; that the question whether the appellant is in possession 2.77 acres has to be decided in the suit and hence, prayed for dismissing the petition for injunction.



4. The learned trial Judge after considering the pleadings and the submissions made by the learned counsel on either side, found that the appellant has purchased 2.27 acres by virtue of a sale deed and her claim that the boundaries will prevail over the extent has to be adjudicated in the suit; that the suit was at the stage of trial; and that the appellant had not established prima facie case, and dismissed the application for injunction.

5. The learned counsel for the appellant submitted that though the sale deed refers to an extent of 2.27 acres, the appellant is in possession of 2.77 acres. The respondents, all of a sudden, few days prior to filing of the suit, trespassed into the land belonging to the appellant. Therefore, she was constrained to file the suit. The respondents had forged certain documents to make it appear that they are in possession of 50 cents of land which is in dispute. The respondents are now attempting to disturb the appellant's possession as regards the disputed property. Therefore, the learned counsel prayed that the order of the learned trial Judge has to be set aside and further, prayed for interim injunction.

6. Per contra, the learned counsel for the respondents submitted that the learned trial Judge, on consideration of the pleadings, had correctly come to the



conclusion that the matter has to be adjudicated in the suit and hence, dismissed the petition for injunction. The learned trial Judge had given elaborate reasons and hence, no interference in the order is called for.

7. This Court finds that the claim of the appellant is that though she had purchased a land to an extent of 2.27 acres, she is in possession of 2.77 acres as the boundaries in the sale deed would indicate that she is in possession of 2.77 acres. This Court is of the view that this issue has to be adjudicated only in the suit. Further, the question as to whether the respondents had forged certain documents to falsely claim title over the disputed extent of 50 cents also to be decided only in the suit. Hence, this Court is of the view that the order passed by the learned trial Judge does not call for any interference as the appellant had not made out any case for grant of injunction.

8. However, considering the nature of dispute and the allegations made by the appellant, this Court is of the view that it is desirable to direct the learned trial Judge to conclude the trial within a time frame. It is also submitted by the learned counsel on either side that the pleadings are complete in the suit. Hence, the learned trial Judge may expedite the hearing of the suit and



conclude it within a period of six months from the date of receipt of a copy of this order.

9. With the above directions, this Civil Miscellaneous Appeal is dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

27.07.2023

Index: Yes/No

Internet: Yes/No

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To

1.The Motor Accident Claims Tribunal /
Additional District Judge, Krishnagiri.

2.The Section Officer
VR Section, High Court of Madras.



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SUNDER MOHAN,J.

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