



C.M.A.No.1762 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A.No.1762 of 2023

and

C.M.P.No.17276 of 2023

1.J.Arun Prakash
2.S.Jayaraj
3.Chandrika
4.Saranya
5.Vijayakumar

... Appellants

Vs

1.P.Venugopal
2.B.Karthik

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Order XLIII Rule 1 of Civil Procedure Code, against the fair and decretal order dated 28.04.2023 made in I.A.No.2 of 2022 in O.S.No.1036 of 2022 on the file of V Additional District Court at Coimbatore.

For Appellants : Ms.P.V.Rajeswari



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J U D G M E N T

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This Civil Miscellaneous Appeal has been filed challenging the order passed in I.A.No.2 of 2022 in O.S.No.1036 of 2022. The defendants are aggrieved by the fact that an interim injunction was passed against the appellants, thereby restricting their right to recover the money due to them by the respondents herein. The respondents filed a suit with the following prayers:-

a) by declaring that the kitchen items and vessels available in 'A' schedule property are belongs to the plaintiffs and consequently restraining the defendants and their men from disturbing or interfering with the peaceful use, possession enjoyment and running the Restaurant in the name and style of "ANNA VILAAS" in plaint 'A' schedule property and their business where ever available.

b) restraining the defendants, their men, agents, servants from in any way and in any manner disturbing or interfering with the plaintiffs peaceful possession and enjoyment of the suit 'B' Schedule property and their business where ever available, by a decree of "permanent injunction".

c) Awarding the costs of the suit;

d) Granting such other and further reliefs as this Court may deem fit and proper in the circumstances of the case.



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2. Admittedly, the respondents have taken loan from the appellants. It is their case that in order to recover the money due to them, the appellants are disturbing and interfering with the peaceful use, possession and enjoyment of the Restaurant run by them.

3. The learned Judge, after hearing the parties granted an order of interim injunction restraining the appellants from interfering with the peaceful possession and enjoyment of the suit schedule properties.

4. Aggrieved against the said order, the appellants have preferred the above appeal.

5. The learned counsel for the appellants contended that admittedly the appellants had lent money to the respondents herein; that the appellants are only attempting to take legal action against the respondents; that they are not disturbing the respondents' possession in any manner illegally; and that by the order of injunction, the appellants right to recover money from the respondents is indirectly sought to be curtailed.



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6. This Court is of the view that the apprehension expressed by appellants that legal action by them cannot be pursued by them due to the impugned order is unfounded. The impugned order would not prevent the appellants from taking any lawful action for recovery of money. The order only injuncts the appellants from taking law into their own hands to take possession of the articles.

7. In the above circumstances, this Court is of the view that as stated earlier, the appellants can resort to civil action for recovery of money and such other action as may be permitted in law. Thus, this Court is of the view that there is no reason to interfere with the order passed by the trial Court.

8. The learned counsel submitted that appellants have already filed a written statement. In view of the above, since the pleadings are complete, the learned trial Judge is directed to complete the process of trial, as expeditiously as possible in any event within a period of six months from the date of receipt of copy of this judgment.



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9. With the above observations, the Civil Miscellaneous Appeal stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

04.08.2023

Index: Yes/No
Neutral Citation: Yes/No
AT

To

1.The V Additional District Court, Coimbatore.

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



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SUNDER MOHAN, J.

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