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C.M.A Nos.2712 and 2724 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.Nos.2712 and 2742 of 2023
and C.M.P.Nos.25030, 25032, 25101 and 25102 of 2023

V.S.Giri

... Appellant in both C.M.As

Versus

1.Kamalambal

2.V.Prabakaran

... Respondents in C.M.A.No.2712 of 2023

1.Palaniammal

2.Dhandapani

3.S.Sundrajan

4.S.Shanmugavalli

5.Kamalambal

6.V.Prabakaran

... Respondents in C.M.A.No.2724 of 2023

Prayer in C.M.A.No.2712 of 2023: Civil Miscellaneous Appeal filed under Order 43 Rule 1(r) of Civil Procedure Code, seeking to set aside the fair and decretal order made in I.A.No.6 of 2022 in O.S.No.243 of 2019 dated 07.12.2022 on the file of the IV Additional District Judge, Coimbatore.



C.M.A Nos.2712 and 2724 of 2023

Prayer in C.M.A.No.2724 of 2023: Civil Miscellaneous Appeal filed under Order 43 Rule 1(r) of Civil Procedure Code, seeking to set aside the fair and decreetal order made in I.A.No.1 of 2020 in O.S.No.243 of 2019 dated 07.12.2022 on the file of the IV Additional District Judge, Coimbatore.

For Appellant : Mr.L.P.Shanmugasundaram
in both C.M.As

For Respondents : Mr.B.Gopalakrishnan
for Mr.B.Kumarasamy
for R1 and R2
in C.M.A.No.2712 of 2023

Mr.B.Gopalakrishnan
for Mr.B.Kumarasamy
for R3 to R5
in C.M.A.No.2724 of 2023

COMMON JUDGMENT

The appellant herein is the plaintiff in O.S.No.243 of 2019 on the file of the IV Additional District Judge, Coimbatore. The suit was for partition. The pleadings in this case is completed and pending suit, the plaintiff had taken out I.A.No.1 of 2020 and I.A.No.6 of 2022 respectively for an order of interim injunction to restrain the respondents herein from alienating the



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property and for restraining them from changing the physical features of the property. These applications were contested by the defendants. After hearing the matter, the learned District Judge had chosen to dismiss both these applications Vide separate orders, both dated 07.12.2022 on the solitary ground that since the suit is ripe for trial, the petition might not be entertained. These orders are now under challenge.

2.Heard Mr.L.P.Shanmugasundaram, learned counsel appearing for the appellant in both C.M.As, and Mr.B.Gopalakrishnan for Mr.B.Kumarasamy, learned counsel appearing for respondents 1 and 2 in C.M.A.No.2712 of 2023 and respondents 3 to 5 in C.M.A.No.2724 of 2023.

3.This Court finds it difficult to approve the line of reasoning which the learned District Judge has adopted for dismissing them. An interim order such as an order of interim injunction is sought to observe *status quo* to facilitate the Court to decide the merit of the cause for any action. Here, there are certain parameters that the Court can consider, but, the suit is ready for trial by itself may not be an adequate ground not to exercise its powers to grant interim injunction in appropriate case. Every case and every



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fact must be assessed on its merits and it cannot be dictated by the stage of the suit or the proceedings.

4.The learned counsel for the appellant showed certain photographs which shows that the subject matter of the present suit is likely to be developed into a layout and necessary plans have been presented before the Town Planning Authorities for obtaining approval. He shared the apprehension of the plaintiff that the character of the property might be altered and property could be sold to third parties and it may jeopardise the rights of the plaintiff.

5.The learned counsel for the respondents submitted that the fulcrum of the plaintiff's case is the document styled as a family arrangement document dated 22.01.1996 but, under the same he would not be entitled to any right in the property. He also submitted that this document is disputed.

6.This Court does not intend to enter a finding regarding this document and it is best left to the consideration of the trial Court.

7.The suit property is a vacant land. Inasmuch as the suit is laid for partition, this Court considers it appropriate to direct the preservation of the



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present *status quo* of the property.

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8. Therefore, this Court directs to preserve the *status quo* of the suit property *vis-a-vis* its physical features as it exists now until the disposal of the suit.

9. Both sides made a joint statement that they would be ready and willing to co-operate for expeditious trial.

10. The IV Additional District Court, Coimbatore is now required to strive best to dispose of the suit in O.S.No.243 of 2019 preferably before 31.03.2024. These Civil Miscellaneous Appeals are accordingly disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

09.11.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The IV Additional District Judge, Coimbatore.



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N.SESHASAYEE, J.

Anu

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