



C.M.A(MD)No.637 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.01.2023

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THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A(MD)No.637 of 2022

and

C.M.P(MD)No.5470 of 2022

1.R.M.Karuppaiah Chettiyar

2.K.R.Kannappan

... Appellants / Respondents 1 & 2

Vs.

1.Mohamed Bilaldeen

...1st Respondent / Petitioner

2.N.Periyasamy

3.The Sub Registrar,
II – Sub Registrar Office,
Dindigul.

4.The State through represented
The District Collector,
The Collector Office,
Dindigul.

...Respondents 2 to 4/
Respondents 3 to 5

PRAYER :-

This Civil Miscellaneous Appeal is filed under Order 43, Rule 1 ® of CPC, to set aside the fair and decreetal order dated 11.01.2022 passed in I.A.No.81 of 2021 in O.S.No.291 of 2021 on the file of the learned Fast Track Mahila Judge, Dindigul.



C.M.A(MD)No.637 of 2022

For Appellants : Mr.M.P.Senthil
For R1 : Mr.R.R.Prithivi Raj
For R2 : Mr.A.N.Ramanathan
For R3 & R4 : Mr.A.Ramesh
Government Advocate

JUDGMENT

This appeal is filed challenging the order dated 11.01.2022 passed in I.A.No.81 of 2021 in O.S.No.291 of 2021 on the file of the Fast Track Mahila Judge, Dindigul.

2.This Civil Miscellaneous Appeal is filed challenging the order of the lower Court granting interim injunction restraining the respondents/defendants and their men, agent worker etc. from alienating the suit property till the disposal of the suit.

3.The learned counsel for the appellants submits that the lower Court has traversed beyond the scope of the application and has rendered its findings touching the merits of the suit at the interim stage.

4.The learned counsel for the respondents on the other hand submits that the appellants in this appeal, who are defendants 1 & 2 in the suit, even



before grant of injunction in the suit, alienated the property to the third defendant. Therefore, if an order of interim injunction is not granted, the appellants/defendants 1 and 2 may further alienate the property, which will result in multiplicity of proceedings.

5.I have heard both side counsels and perused the judgment and decree of the lower Court.

6.As rightly pointed out by the learned counsel for the appellant, the trial Court has traversed beyond the scope of the interim application and has rendered findings on merits which is not permissible. On the other hand, considering the conduct of the defendants and in order to avoid multiplicity of proceedings, it is necessary to injunct the appellant from alienating the properties. The order of the learned judge, in so far as the interim order of injunction restraining the defendants 1 and 2, i.e. the appellants, from alienating the suit property in the pending suit is concerned, is confirmed. But at the same time, it is made clear that the findings and observations made by the learned Judge touching upon the merits of the case are eschewed and the trial Court shall hear the case on merits without reference to the findings recorded in the interim order.



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7. Accordingly, this Civil Miscellaneous Appeal is disposed of.
Consequently connected miscellaneous petition is closed.

04.01.2023

Index : Yes / No
Internet : Yes / No
vsd

To

- 1.The Fast Track Mahila Judge,
Dindigul.
- 2.The Sub Registrar,
II – Sub Registrar Office,
Dindigul.
- 3.The State through represented
The District Collector,
The Collector Office,
Dindigul.
- 4.The Record Keeper, Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA, J

vsd

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