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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.05.2023

CORAM :

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.M.A.(MD)Nos.489 and 490 of 2023
and
C.M.P.(MD)Nos.6214 and 6217 of 2023

C.M.A.(MD)No.489 of 2023:

K.Krishnamoorthy

...Appellant

Vs.

1.M/s.Udumalai Nadar Uravin Murayar Sangam,
registered office at Reg.No.17/84,
Door No.81, Sathasivam Street,
Udumalpet, Tiruppur District,
represented by its Secretary R.S.Venkatesan.

2.R.Duraisamy

3.M.Pavayammal

4.S.Vivek

5.K.Kumar

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Order 43 Rule (1)(r) of Civil Procedure Code, to set aside the impugned order and decree passed by the learned Additional District Judge, Palani in I.A.No.129 of 2023 in O.S.No.117 of 2023, dated 25.04.2023, by allowing this appeal.



C.M.A.(MD)No.490 of 2023:

K.Krishnamoorthy

...Appellant

Vs.

1.M/s.Udumalai Nadar Uravin Murayar Sangam,
registered office at Reg.No.17/84,
Door No.81, Sathasivam Street,
Udumalpet, Tiruppur District,
represented by its Secretary R.S.Venkatesan.

2.R.Duraisamy

3.M.Pavayammal

4.S.Vivek

5.K.Kumar

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Order 43 Rule (1)(r) of Civil Procedure Code, to set aside the impugned order and decree passed by the learned Additional District Judge, Palani in I.A.No.128 of 2023 in O.S.No.117 of 2023, dated 25.04.2023, by allowing this appeal.

In both cases:

For Appellant : Mr.K.V.Subramian

COMMON ORDER

C.M.A.(MD)No.489 of 2023 is filed to set aside the impugned order and decree passed by the learned Additional District Judge, Palani in I.A.No. 129 of 2023 in O.S.No.117 of 2023, dated 25.04.2023.

2.C.M.A.(MD)No.490 of 2023, is filed to set aside the impugned order and decree passed by the learned Additional District Judge, Palani in I.A.No.



128 of 2023 in O.S.No.117 of 2023, dated 25.04.2023.

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3.I.A.No.129 of 2023 was entertained by the learned Additional District Judge, Palani, and an order of ad-interim injunction was granted restraining the respondents from alienating the property. I.A.No.128 of 2023, was filed seeking ad-interim injunction against the respondents/defendants in respect to the suit properties from interfering in the peaceful possession of the suit property.

4. The contention of the appellant herein is that he is in possession of the suit property. But the order is passed as if the respondents are in possession of the suit property is affecting the appellant's rights. Since the Learned Judge had not consider this fact, this Court is inclined to remit the case back to the Learned Judge to consider the same after giving opportunity to the appellant as well as the respondents. Therefore, the order in I.A.No. 128 of 2023 is set aside. The Learned Judge is directed to consider the I.A.No.128 of 2023 after granting opportunity to the parties and pass fresh orders.

5. As far as the order passed in I.A.No.129 is concerned the appellant submitted that the order restraining the appellant from alienating the property



is affecting his rights. The further contention of the appellant is that already for the same prayer O.S.No.71 of 2009 on the file of Sub Court, Udumalpet was filed and the same is pending. This fact was not brought to the knowledge of the Learned Additional District Judge, Palani. Therefore, this Court is of the considered opinion that there are several suits, petitions, suits and writ petitions filed between the parties. Therefore, in order to reduce the multiplicity of litigations, it would be proper to restrain the appellant from alienating the property. Hence this Court is not inclined to interfere with the order passed in I.A.No.129 of 2023.

6. The Learned Additional District Judge, Palani, is directed to take note of the fact that O.S.No.71 of 2009 is filed on the file of Sub Court, Udumalpet and the same is still pending.

7. With the above said direction, the C.M.A.(MD)No.490 of 2023 is allowed. The C.M.A.(MD)No.489 of 2023 is dismissed. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

Index :Yes/No
Internet:Yes/No

11.05.2023

Tmg

Note: Issue order copy on **12.05.2023**.



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To

1. The 1st Additional District Judge,
Palani.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

**Order made in
C.M.A.(MD)Nos.489 and 490 of 2023**

11.05.2023