



C.R.P(MD)No.1426 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **20.06.2023**

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P(MD)No.1426 of 2023

and

C.M.P(MD)No.7118 of 2023

Balakumar

...Petitioner/Respondent/
Defendant

Vs.

Srinithi

...Respondent/Petitioner/
Plaintiff

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the docket order passed in I.A.No.88 of 2023 and renumbered as I.A.No.404 of 2023 in O.S.No.10 of 2023 and renumbered as O.S.No.101 of 2023 dated 15.05.2023 on the file of the District Vacation Court, Pudukkottai subsequently transferred to District Munsif, Aranthangi.

For Petitioner : Mr.K.Guhan

ORDER

The present Civil Revision Petition has been filed against the docket order passed in I.A.No.88 of 2023 and renumbered as I.A.No.404



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of 2023 in O.S.No.10 of 2023 and renumbered as O.S.No.101 of 2023 dated 15.05.2023 on the file of the District Vacation Court, Pudukkottai subsequently transferred to District Munsif, Aranthangi.

2. The District Vacation Court, Pudukkottai has passed an order of interim injunction in I.A.No.88 of 2023 on 15.05.2023. An order under Order 39 Rule 1 read with Rule 2 of C.P.C. and an order granting ad-interim injunction without notice to the other side has to be confined to only 30 days subject to the compliance of the requirements of Sub clause 3 and 3A of Order 39 of C.P.C. The impugned order passed in I.A.No.88 of 2023 which is now pending before the District Munsif Court, Aranthangi in I.A.No.404 of 2023.

3. *Prima facie*, the order granting permanent injunction *ex parte* is contrary to the law settled by the Hon'ble Supreme Court and the provisions expressed under Order 39 of C.P.C. In this connection, reference is made to the following two cases:

(i) Morgan Stanley Mutual Fund Vs Kartick Das reported in (1994) 4 SCC 225.



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(ii) Rt Rev Dr.V.Devasahyam, Bishop in Madras CST and others

Vs D.Sahayadoss and others reported in 2002 (1) CTC 458.

4. Considering the above, this Court is inclined to dispose of the present Civil Revision Petition at the time of admission by directing the District Munsif Court, Aranthangi to pass fresh order under Order 39 of C.P.C. after enquiry and after hearing the petitioner. This exercise shall be carried out by the District Munsif Court, Aranthangi as expeditiously as possible preferably within a period of 15 days from the date of receipt of copy of this order. The interim order that has been passed on 15.05.2023 shall be treated as temporary injunction and not as permanent injunction.

5. The present Civil Revision Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Note: Issue order copy on 20.06.2023

To

- 1.The District Munsif Court,
Aranthangi
- 2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

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