



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1137 of 2024
and CMP No.10301 of 2024

Smt.Datchayani

..Appellant

.VS.

1.Smt.G.Padma

2.Mr.B.Venkatesan

3.Mr.Vasu

4.Smt.V.Kalavathi

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 2 of C.P.C., against the fair and decretal order passed in I.A.No.2 of 2023 in A.S.No.42 of 2022 by the Principal District Judge, Thiruvallur dated 12.10.2023.

For Appellant : Mr.K.Balaji

For Respondent : Mr.R.Krishnaswamy for R1

JUDGMENT

The present appeal has been filed against the fair and final order passed in I.A.No.2 of 2023 in A.S.No.42 of 2022 by the Principal District Judge, Thiruvallur, dated 12.10.2023, dismissing the application for grant of ad-interim injunction, pending disposal of the appeal.



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2.The defendant is the appellant in this civil miscellaneous appeal. The respondents are the plaintiffs who filed the suit before the Sub Court, Ponneri in O.S.No.40 of 2015 seeking for the relief of declaration and permanent injunction. The suit was contested and ultimately, the suit was decreed in favour of the respondents. Aggrieved by the same, the appellant filed an appeal before the Court below in A.S.No.42 of 2022. Pending the appeal, the appellant filed an application in I.A.No.2 of 2023 seeking for the relief of interim injunction. The Court below on considering the facts and circumstances of the case and also after taking into consideration the Decree passed by the Trial Court, came to a conclusion that the appellant is not entitled for an order of interim injunction, since the appellant had not made out a case. Aggrieved by the same, the present civil miscellaneous appeal has been filed before this Court.

3.Heard Mr.K.Balaji, learned counsel appearing on behalf of the appellant, Mr.R.Krishnaswamy, learned counsel appearing on behalf of the 1st respondent.

4.This Court has carefully considered the submissions made on either side and also the materials available on record.

5.In the instant case, the respondents have filed the suit seeking for the relief of declaration of title, declaring the Sale Deed executed in favour of the defendant



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as null and void and for the relief of permanent injunction. The Trial Court on considering the facts and circumstances of the case and on appreciation of evidence had decreed the suit by Judgement and Decree dated 29.09.2022. Aggrieved by the same, the appellant has filed the appeal suit before the Court below. Pending the appeal, the appellant has sought for the order of interim injunction on the ground that an attempt is being made by the respondents to interfere with the possession and enjoyment of the property.

6. There is no dispute with regard to the fact that the property in question is a vacant land. Therefore, possession for such a vacant land will only run with the title. The title has been found in favour of the respondents and therefore, permanent injunction was also granted in their favour. Till this Decree is reversed, there is no question of granting any injunction in favour of the defendant who has suffered the Decree.

7. The Court below has properly considered this issue and found that the appellant has neither a *prima facie* case, nor balance of convenience nor has established that irreparable injury would be caused if injunction is not granted. This finding of Court below does not suffer from any infirmity or illegality and it does not warrant the interference of this Court.



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N. ANAND VENKATESH., J

ssr

8.In the light of the above discussion, the order passed by the Court below is confirmed and this appeal stands dismissed. Considering the fact that the appeal is pending from the year 2022 onwards, there shall be a direction to the learned Principal District Judge, Thiruvallur to dispose of the appeal in A.S.No.42 of 2022, within a period of three months from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

06.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

The Principal District Judge, Thiruvallur.

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