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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2482 of 2021 and C.M.P. No.14248 of 2021

Saroja Ammal .. Appellant

Vs.

1.M.Ramaiah

2.R.Vasanthappa

3.Bakiyammal

4.Narasimma Moorthy

5.Lakshmi Devi .. Respondents
(respondents 2 to 5 are brought on record
as per memo dated 28.10.2021 by AQJ vide
order of this Court dated 24.04.2024)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal order dated 10.03.2021 in I.A. No.1 of 2020 in O.S. No.44 of 2020 on the file of the Additional District Court, Hosur.

For Appellant : Mr.R.Subramanian

For Respondents : R1-died
Mr.S.Chandrasekar for R2 to R4
No appearance for R5

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JUDGMENT

A Memo was filed by the learned counsel for the appellant as early as on 28.10.2021. As seen from the said Memo, the first respondent is dead and the respondents 2 to 5 are his legal heirs.

2.In terms of the said Memo, the respondents 2 to 5 are brought on record as the legal representatives of the deceased first respondent. The registry is directed to carry out the amendment accordingly.

3.The appellant has filed this appeal, challenging the order dated 10.03.2021 passed by the Additional District Court, Hosur in I.A. No.1 of 2020 in O.S. No.44 of 2020.

4.The appellant is the plaintiff in the suit in O.S. No.44 of 2020 on the file of the Additional District Court, Hosur. She had filed I.A. No.1 of 2020 seeking for an order of injunction restraining the defendants from selling the suit properties to third parties. The defendants in the suit are brothers and sisters of the plaintiff. The suit was filed for partition. The Trial Court dismissed I.A. No.1 of 2020 by holding that since the suit is

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filed for partition against the co-owners, the interim injunction sought for by the plaintiff cannot be granted.

5.Though the learned counsel for the appellant would contend that the defendants are attempting to alienate the suit properties depriving the legitimate rights of the plaintiff, the question of granting injunction at this stage does not arise. The Trial Court has held that the discretion cannot be exercised in favour of the plaintiff by granting an order of interim injunction as prayed for by the plaintiff in I.A. No.1 of 2020.

6.This Court does not find any infirmity in the impugned order as it does not suffer from any perversity. For the foregoing reasons, there is no merit in this appeal. However, in the interest of justice, the only relief that can be granted by this Court is to direct the Trial Court viz., the Additional District Court, Hosur to dispose of the suit in O.S. No.44 of 2020, within a time frame to be fixed by this Court.

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ABDUL QUDDHOSE, J.

vga

7.Accordingly, this Court directs the Trial Court viz. the Additional District Court, Hosur to dispose of the suit in O.S. No.44 of 2020 within a period of six months from the date of receipt of a copy of this judgment. A further direction is also issued to the Trial Court that while disposing of the suit, the Trial Court will have to pass a judgment uninfluenced by any of the observations recorded by the learned Additional District Court, Hosur in its order dated 10.03.2021 passed in I.A. No.1 of 2020 in O.S. No.44 of 2020. No costs. Consequently, connected C.M.P. is closed.

24.04.2024

vga

To

1.The Additional District Court, Hosur.

2.The Section Officer,
V.R. Section, High Court, Madras.

C.M.A. No.2482 of 2021

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