



CMA.Nos.1147 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.1147 of 2023
CMP.No.11105 of 2023

1. K.Ravi
2. K.Jayaraman
3. K.Rajathi

Appellants

Vs

1. Dhanabakiyam
2. Suseela
3. K.Banumathi
4. K.Ambujam
5. P.Sagunthala
6. M.Rajkumar
7. M.Kalyanakumar
8. M.Santhi
9. S.Venkatesan
- 10.K.Raguram
- 11.Syed Ibrahim
- 12.Shajahan
- 13.Devarajan
- 14.M.Devagiammal (died)

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the fair and decretal order dated 01.02.2023, passed in IA.No.335 of 2022 in OS.No.76 of 2019 by the III Additional District Judge, Villupuram at Kallakurichi.

For Appellants : Mr.P.Jagadeesan

For Respondents : Mr.G.Bharathi-RR1 and 2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the fair and decretal order dated 01.02.2023, passed in IA.No.335 of 2022 in OS.No.76



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of 2019 by the III Additional District Judge, Villupuram at Kallakurichi.

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2. The above suit was filed by the Respondents 1 and 2 herein for partition of the suit properties and separate possession of the same. The Petitioners herein, who are the Defendants 1, 2 and 4 have contested the suit by filing a written statement. The Respondents 1 and 2 herein have filed the above application, seeking appointment of a Receiver for the purpose of collecting rents. In and by the impugned order, the said application was allowed, appointing an Advocate Receiver to collect the rent and deposit the same into the court account. Aggrieved by the same, this Civil Miscellaneous Appeal has been filed by the Defendants 1, 2 and 4.
3. This Court heard the learned counsel for the Appellants and the contesting Respondents, considered their submissions and also perused the entire materials placed on record.
4. On a perusal of the prayer sought for in the suit, it is seen that the suit was filed only for passing a preliminary decree for partition. The Plaintiffs have claimed entire right in the suit properties. Considering this aspect and the facts that the suit was filed only for partition and that the dispute is yet to be decided and that the Defendants have been collecting the rents, after the demise of their sister on 14.11.2018, the court below felt that it would be appropriate to appoint a Receiver to collect the rents and to deposit the same into the court and accordingly, passed the impugned order
5. Once the subject matter of the suit has been concluded, deciding the person, who is entitled to the suit properties, only such person, who succeeds in the



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suit, will be disbursed the rental amounts so collected through the Receiver.

Therefore, this Court does not find that anybody's interest including the Appellants' interest is going to be affected by virtue of the impugned order passed by the court below. Because such an interim measure is a limited one and it will continue till the time the suit is decided, no prejudice would be caused to any of the parties till such time. In such view of the matter, only to protect the interest of both the parties, the Advocate Receiver was appointed to receive the rents and to deposit the same into the Court, by the impugned order, which warrants no interference by this Court and accordingly, the impugned order is sustainable.

6. At this juncture, It is brought to the notice of this Court by the learned counsel for the Petitioners that pursuant to the interim order of stay dated 19.06.2023 granted till 24.07.2023 by this Court, the rent was not collected and thereafter, since the interim order was not extended subsequently, the Receiver has been collecting the rent and depositing the same into the Court.

7. It is also brought to the notice of this Court by the learned counsel for the Respondents that after passing of the impugned order, the Receiver collected rents only for two months and thereafter, he has not collected the same, in view of the interim order. The learned counsel for the Respondents would submit that event if the rent is not collected by the Receiver as on date or subsequent to the interim order of this Court, the Advocate Receiver may be directed to collect the rent at least from February 2024 end onwards and



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thereafter, deposit the same into the Court as directed by the court below.

8. Considering the said submissions and the fact that no prejudice would be caused to any of the parties, by collecting rents and depositing the same into the Court account, the Advocate Receiver appointed by the court below is directed to collect the rent from February 2024 end onwards and deposit the same into the Court periodically, as directed by the court below.
9. With the above directions and observations, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected MP is closed.

22.02.2024

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
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To

1. The III Additional District Judge, Villupuram at Kallakurichi.
2. The Record Keeper, VR Section, High Court, Madras

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