



Civil Miscellaneous Appeal No.1339 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1339 of 2024
and CMP No.12074 of 2024

K.Revathi

... Appellant

Vs.

1.K.Venkatachalam

2. Dr.V.Keethana

3. Dr.Keerthiraj

... Respondents

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of CPC to set aside the order dated 02.04.2024 passed in I.A.No.3 of 2023 in O.S.No.125 of 2023 on the file of the Principal District Judge at Dharmapuri.

For Appellant : Mr.Prakash Goklaney

For Respondents : Mrs.Darsini Priya
Government Pleader for
R1 to R3



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JUDGMENT

The plaintiff is the appellant in this appeal and the present appeal has been filed under Order 43 Rule 1 of CPC against the fair and decreetal order passed by the Principal District Judge, Dharmapuri in I.A.No.3 of 2023 in OS No.125 of 2023 dated 02.04.2023, dismissing the application filed by the appellant seeking for an order of interim injunction, pending disposal of the suit.

2. Heard Mr.Prakash Goklaney, learned counsel for the appellant and Mrs.Darsini Priya, learned Government Pleader for respondents 1 to 3.

3. The appellant has filed the suit seeking for the relief of specific performance based on the agreement of sale dated 14.08.2021. The case of the appellant is that the parties have entered into an agreement of sale and the entire consideration has been paid and the possession was also handed over and inspite of the same, the sale deed was not executed in favour of the appellant. The same gave rise to the filing of the suit seeking for the relief of specific performance.



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4. Per contra, the case of the respondents/ defendants is that the 1st respondent is in possession and enjoyment of the suit property and all the original documents are held by the 1st respondent. The further case of the respondents is that the 1st respondent had borrowed money for incurring the education expenses of the respondents 2 and 3 and the money that was borrowed from the husband of the appellant was also repaid back. At the time of borrowing the amount, signatures were obtained in blank papers and stamp papers. These signed documents were misused by the appellant and an agreement of sale has been created. Therefore, the respondents came up with a case that there was no agreement of sale between the parties and they sought for the dismissal of the suit.

5. Pending the suit, the appellant filed an application seeking for interim injunction restraining the respondents from alienating, transferring or interfering with the possession and enjoyment of the suit property. This application was dealt with by the Court below and the Court below found that the appellant has not made out a *prima facie* case



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and that the balance of convenience was also not in her favour and that if the order of interim injunction is granted in favour of the appellant, it will cause irreparable loss and injury to the respondent.

6. In the considered view of this Court, there are various disputed facts which has to be decided in the suit since the respondents are denying the very execution of the agreement of sale in favour of the appellant. However, the fact remains that the property in question is a vacant land. Taking that into consideration, the interim order can be passed by balancing the rights of both the parties, pending disposal of the suit. This Court can also direct the suit to be disposed of within a time frame, since the pleadings are complete.

7. The suit property being a vacant land can continue to be a vacant land till the disposal of the suit. No third party right shall be created during the pendency of the suit. If this status quo is continued till the disposal of the suit, it will not affect the rights of both the parties. The suit in OS No.125 of 2023, shall be disposed of by the learned Principal District Judge, Dharmapuri, within a period of three months



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from the date of receipt of a copy of this order. The parties will co-operate for the early disposal of the case and no unnecessary adjournment shall be granted by the Court below.

8. This Civil Miscellaneous appeal is disposed of in the above terms. No costs. Consequently, the connected miscellaneous appeal is closed.

18.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J

rka

To,

Principal District Judge at Dharmapuri.

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