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C.R.P.No.3860 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3860 of 2024
and C.M.P.No.21205 of 2024

P.Venkat Narayan

... Petitioner

-Vs-

1.P.Ashok Kumar

2.P.Vijayakumar

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order of the XVIII Additional City Civil Court, Chennai dated 11.07.2024 in I.A.No.2 of 2023 in O.S.No.2912 of 2023.

For Petitioners : Mr.C.Prabakaran

For Respondents : Mr.R.Sethuvarayar

ORDER

This Civil Revision Petition arises against the order passed by the learned XVIII Additional City Civil Court in I.A.No.2 of 2023 in O.S.No.2912 of 2023.

2. O.S.No.2912 of 2023 is a suit for partition and separate possession. Pending disposal of the suit, the plaintiff took out an application in I.A.No.2 of 2023 seeking for an order of interim injunction restraining the defendants 1 and 2 from



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putting up any construction or modification of the suit schedule mentioned property.

3. After receipt of a counter from the second defendant, the learned Judge granted ad interim injunction. She made it clear that it is only in order to prevent further litigation between the parties and since the suit itself is part heard, she was inclined to grant the said relief. Otherwise, the learned Judge wanted to observe status quo as it exists today till the disposal of the suit. However, while passing the order, the learned Judge held as follows:

" In the result, this I.A.No.2 of 2023 is allowed and Ad-interim injunction granted till 01.08.2024."

4. Heard Mr.C.Prabakaran for the petitioner and Mr.R.Sethuvarayar for the respondents.

5. Mr.C.Prabakaran would argue that he is not in a position to file an appeal against this order on account of the later portion of the order restricting the injunction till 01.08.2024. He would point out that the learned Judge, having allowed the application, had disposed of the application itself. Therefore, to hold that injunction is granted till 01.08.2024 runs contrary to the findings entered into by her from Para 5(i) to 5(iii).

6. Learned counsel for the plaintiffs / respondents herein would submit that



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the entire construction that has been put up by the second defendant is unauthorised one and it is without approval from the CMDA or the appropriate planning authorities.

7. Under Article 227 of the Constitution, I am not inclined to go into the merits of the contentions. If I were to do so, it will affect the merits of the appeal which would be presented as against the impugned order. Suffice it to hold that the order of the learned Judge stating that the application is allowed, but injunction is granted till 01.08.2024 will stand modified. The order will be read as follows:

" I.A.No.2 of 2023 is allowed."

8. With the above modification, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

KST

To

The XVIII Additional City Civil Court,
Chennai.



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V. LAKSHMINARAYANAN, J.

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