



C.M.A.No.3343 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3343 of 2024

and

C.M.P.No.28183 of 2024

1.Mary Jennifer P.S.
2.Jeswanth Raj P.S.
3.P.S.Victor also called as Januarius Victor
Rep. by legal Guardian Mr.Jeswanth Raj P.S. ... Appellants

Vs.

L.Rex Paul ... Respondent

Prayer : Civil Miscellaneous Appeal filed under Order 43 Section 1 of the Code of Civil Procedure, 1908, pleaded to set aside the unfair decreetal order dated 15.10.2024 in I.A.No.7 of 2024 in O.S.No.276 of 2024 before the II Additional District and Sessions Judge, Poonamallee.

For Appellants : Mr.P.R.Umamaheswari

JUDGMENT

Challenging the decreetal order passed by the learned II Additional



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District and Sessions Judge, Poonamallee, dated 15.10.2024 made in I.A.No.7 of 2024 in O.S.No.276 of 2024, the appellant has filed the present appeal.

2. In view of the judgment which is going to be passed in this appeal, notice to the respondent is dispensed with.

3. The appellants have filed a suit for partition in O.S.No.276 of 2024 on the file of the learned II Additional District and Sessions Judge, Poonamallee, in which, the appellants have also filed an interlocutory application in I.A.No.7 of 2024 seeking an ad-interim injunction restraining the respondent, his men, agents representatives and any person claiming under him from entering into the suit schedule property and constructing or creating any structure on the suit schedule property. However, the said petition was disallowed vide order dated 15.10.2024 on the ground that there was a progressive construction in the suit schedule property. Challenging the same, the present appeal is filed.

4. When the matter is taken up for today, learned counsel



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appearing for the appellants submitted that, during the pendency of *lis* in between the parties, the respondent has made construction in the suit schedule property. Hence, she submitted that, this court may grant liberty to the appellants to canvass all those points before the trial court in terms of Section 52 of Transfer of Property Act.

5. In view of the limited request sought for by the learned counsel for the appellants, this court, without interfering with the impugned order, grants liberty to the appellants to canvass all those points before the trial court in terms of Section 52 of Transfer of Property Act.

6. With the above liberty, this Civil Miscellaneous Appeal is dismissed. However, it is made clear that the construction made by the respondent is subject to the result of the partition suit filed by the appellants. No costs. Consequently, the connected miscellaneous petition is closed.

06.12.2024

Index : Yes / No
Speaking order / Nonspeaking order



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Netrual Citation Case : Yes / No
sp

M.DHANDAPANI, J.

sp

To

The II Additional District and Sessions Judge, Poonamallee.

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