



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.902 of 2024
and CMP No.8344 of 2024

Murali Gopal

..Appellant

.VS.

Kalaivanan

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Order XLIII Rule 1(r) of CPC, against the order and Decreetal order made in CMP No.60 of 2022 in A.S.No.37 of 2022 dated 08.12.2023 on the file of the Subordinate Judge, Tindivanam.

For Appellant : Mr.R.Thiagarajan

For Respondent : Mr.Sam Jayaraj Hoston

JUDGMENT

The unsuccessful appellant whose application filed in CMP No.60 of 2022 in A.S.No.37 of 2022 seeking for the order of interim injunction pending the appeal was dismissed by the learned Subordinate Judge, Tindivanam by order dated 08.12.2023, has preferred the present civil miscellaneous appeal before this Court.



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2.The appellant filed a suit seeking for the relief of declaration of title and permanent injunction in O.S.No.190 of 2010 before the Additional District Munsif Court, Tindivanam. The Trial Court on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the appellant is not entitled for the relief sought for in the suit and accordingly, the suit was dismissed by judgment and decree dated 23.08.2022.

3.Aggrieved by the judgment passed the Trial Court, the appeal came to be filed before the Sub Court, Tindivanam in A.S.No.37 of 2022. Along with the appeal, the petition was filed in CMP No.60 of 2022 seeking for the relief of interim injunction pending the appeal. The Court below on considering the facts and circumstances of the case and also the materials placed before this Court, came to a conclusion that the appellant is not entitled for the relief of interim injunction and accordingly, dismissed the petition by an order dated 08.12.2023. Aggrieved by the same, the present appeal has been filed before this Court.

4.Heard Mr.R.Thiagarajan, learned counsel appearing on behalf of the appellant and Mr.Sam Jayaraj Hoston, learned counsel appearing on behalf of the respondent.

5 This Court has carefully considered the submissions made on either side and



the materials available on record.

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6. This Court has also carefully gone through the order passed by the Court below.

7. The main ground that was raised by the learned counsel for the appellant was that the appellant had produced nearly 21 documents to support his claim for interim injunction, pending the appeal and the same was not properly appreciated by the Court below. It was further submitted that the Court below did not properly exercise the discretion and failed to grant the order of interim injunction, pending the appeal.

8. Per contra, the learned counsel for the respondent submitted that the Court below had properly appreciated the materials placed and had dismissed the petition seeking for interim injunction and the same does not warrant the interference of this Court.

9. In the considered view of this Court, the discretion that has been exercised by the Court below does not warrant the interference of this Court. The appeal is of the year 2022 and therefore, it will be more appropriate to direct the Court below to dispose of the appeal within a time frame.

10. In view of the above, this civil miscellaneous appeal is disposed of with a



direction to the Sub Court, Tindivanam to dispose of A.S.No.37 of 2022, within a

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N. ANAND VENKATESH., J

SSR

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period of four months from the date of receipt of copy of this order. Pending the appeal, there shall be a direction to the respondent not to create any third party rights.

No Costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Subordinate Judge, Tindivanam.

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