



C.M.A.(MD) No.1360 of 2010

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1360 of 2010

and

M.P.(MD) No.1 of 2010

A.Krishnan

S/o.Antony Muthu Nadar

... Appellant

Vs.

1.S.Saroja

W/o. Late. Thirumal

2.T.Unnisankar

S/o.Late. Thirumal

3.Susipriya

S/o.Late. Thirumal

4.Natarajan

S/o.Antony Muthu Nadar

... Respondents

[R4 - given up. Notice to R4 was dispensed with
since no relief is sought for against him]

[R2 & R3 - dismissed for default]

Prayer:- Civil Miscellaneous Appeal filed under Order 43 Rule 1(R) of
Civil Procedure Code, 1908, to set aside the fair and decretal order dated



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14.06.2010 made in I.A.No.243 of 2010 in O.S.No.53 of 2010, on the file of the District Judge, Kanyakumari at Nagercoil.

For Appellant : No appearance

For R1 : No appearance

J U D G M E N T

Since the learned counsel for the appellant had earlier filed a memo reporting 'no instructions', the name of the appellant is printed in the cause list. However, there is no representation for the appellant.

2. Although notice has been served on the first respondent, none has entered appearance. The case against the second and third respondents was dismissed by virtue of the order of this Court dated 02.09.2022. The fourth respondent was already given up by the appellant.

3. The instant appeal has been filed by the defendant in the partition suit in O.S.No.53 of 2010 challenging the order dated 14.06.2010 passed by the learned District Judge, Kanyakumari, at Nagercoil in I.A.No.243 of 2010, which directs the parties to maintain *status quo*.



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4. It is the case of the respondents that they are co-owners of the suit properties. The appellant contended before the trial court that the respondents are not co-owners; that there was an oral partition by which the appellant was allotted different properties; and that hence he has no right over the properties.

5. The trial court, after considering the respective submissions of the parties, held that the appellant was attempting to put up the constructions on the suit properties to the prejudice of the rights of the co-sharers and directed the parties to maintain the *status quo*.

6. The point for consideration in the appeal is whether the trial court was right in directing the parties to maintain the *status quo* pending disposal of the suit.

7. This Court, on perusal of the pleadings and the order passed by the trial court, finds that the issue as to whether the respondents have right over the properties has to be adjudicated in the suit. Since neither of the parties is represented before this Court, the stage of the suit could not be ascertained. In any case, the direction given to the parties to maintain the



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status quo in the facts and circumstances of the case is in accordance with law, considering the plea taken by the respondents, their relationship with the appellant, and the documents relied upon by them. Therefore, there is no infirmity in the impugned order.

8. Hence, this Civil Miscellaneous Appeal has no merits and is accordingly dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

13.08.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

JEN

Copy To:

- 1.The District Judge,
Nagercoil,
Kanyakumari District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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SUNDER MOHAN, J.

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