



C.R.P(MD)No.1312 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2024

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1312 of 2019

and

C.M.P(MD)No.7153 of 2019

1.Arunachalam @ Annamalai

2.Malliga

3.Mageshwari

... Petitioners / Petitioners/
Respondents/Defendants

Vs.

1.Venkatraman

2.Ganesan

... Respondents/Respondents/
Petitioners/Plaintiffs

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the order of dismissal, dated 09.11.2018 passed by the learned Principal Subordinate Court, Dindigul in C.M.A.No.19 of 2016 in confirming the order of interim injunction in I.A.No.408 of 2015 in O.S.No.391 of 2015 passed by the learned District Munsif, Dindigul and set aside the same.

For Petitioners

: M/s.AL.Gandhimathi
Senior Counsel
for Mr.S.Balakarthick



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For R-1 : No Appearance

For R-2 : Mr.K.C.Ramalingam

ORDER

The defendants in O.S.No.391 of 2015 are the revision petitioners herein. The present revision petition has been filed challenging the granting of interim injunction in favour of the plaintiffs in I.A.No.408 of 2015.

2. The respondents herein as plaintiffs have filed O.S.No.391 of 2015 on the file of the District Munsif Court, Dindigul for the relief of permanent injunction. Pending suit, the plaintiffs had filed I.A.No.408 of 2015 seeking interim injunction. The trial Court after considering the plaint averments and the plaint documents, had proceeded to grant an order of interim injunction. The defendants had filed C.M.A.No.19 of 2016 before Principal Sub Court, Dindigul. The learned Sub Judge after independently considering the pleadings and documents, had confirmed the granting of order of interim injunction. Challenging the same, the present revision petition has been filed by the defendants.



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3. According to the learned Senior Counsel appearing for the revision petitioners, Vengidusamy Reddiyar is the original owner of the property. The plaintiffs are the legal heirs of the said Vengidusamy Reddiyar through his daughter, by name Mangammal. On the other hand, the defendants are the legal heirs of the same Vengidusamy Reddiyar through his son Gopal Reddiyar. The plaintiffs have claimed title by way of a registered settlement said to have been executed by the said Vengidusamy Reddiyar in favour of his daughter Mangammal. On the other hand, the defendants claimed that the said Vengidusamy Reddiyar had executed a Will in favour of his daughter-in-law, namely Kasthuri Ammal on 21.07.1980. After executing the Will, Vengidusamy Reddiyar had passed away in the year 1982.

4. From the pleadings of the parties, it is very clear that there is a dispute between the 2 co-sharers with regard to the title of the property based upon a registered settlement deed and Will, dated 21.07.1980. The learned Senior Counsel appearing for the petitioners had contended that the registered settlement deed has not been filed on behalf of the plaintiffs. Therefore, when the plaintiffs have not established a *prima facie* case before the trial Court, the trial Court as well as the appellate



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Court ought not to have granted an order of interim injunction. When the title deed has not been produced, the plaintiffs and the defendants become co-sharers and the question of granting an order of interim injunction as against another co-sharer is not valid.

5. Per contra, the learned counsel appearing for the respondent had contended that the 1st defendant herein as minor represented through her mother Kasthuri Ammal had filed O.S.No.98 of 1977 before Sub Court, Dindigul for the relief of partition of 7 items of property. The trial Court after considering the evidence on record had decreed the suit only with regard to items 1 to 3 and dismissed the suit with regard to items 4 to 7. The present suit schedule properties fall under items 1 to 3. In the said suit, the registered settlement deed, dated 01.11.1965 was marked as Exhibit B.1. Thereafter, the plaintiff therein, namely Arunachalam had filed A.S.No.332 of 1991 before this Court and this Court was pleased to confirm the judgment and decree of the trial Court by a judgment and decree, dated 22.07.2009. Therefore, the prayer relating to the present suit items have already attained finality. Hence, the plaintiffs have made out a *prima facie* case.



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6. The trajectory of the events cited above will clearly show that there is a dispute between the parties with regard to the nature of certain documents. The trial Court as well as the first appellate Court on the basis of the *prima facie* case made out on behalf of the plaintiffs, has granted interim injunction and thereafter, the same was confirmed by the first appellate Court. Any opinion expressed by this Court at this length of time would affect the merits of the case of both the parties. Therefore, this Court is not inclined to go into the merits of the suit. This revision petition is disposed of with a direction to the trial Court to dispose off the suit on or before **31.08.2024** without being influenced by anyone of the observations made by this Court.

7. With the said observations, this Civil Revision Petition stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

10.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

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- 1.The Principal Subordinate Court,
Dindigul.
- 2.The District Munsif,
Dindigul.
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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