



C.M.A(MD)No.683 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.683 of 2019

and

C.M.P(MD)No.8292 of 2019

A.Arokiamary

... Appellant/3rd Respondent/
3rd Defendant

Vs.

1.J.Sudalaivadivu

... Respondent/Petitioner/
Plaintiff

2.L.Subbiah

... Respondent/ 1st Respondent/
1st Defendant

3.B.Pushpakala

... Respondent/2nd Respondent/
2nd Defendant

PRAYER: Civil Miscellaneous Appeal is filed under Order 43 Rule 1 of Code of Civil Procedure, to set aside the order, dated 19.06.2019 made in I.A.No.107 of 2018 in O.S.No.84 of 2018 on the file of learned II Additional District Court, Tuticorin.

For Appellant : Mr.C.Jeganathan

For R1 : Mr.S.Kadarkarai

For R3 : No Appearance



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JUDGMENT

The 3rd defendant in O.S.No.84 of 2018 on the file of II Additional District Court, Tuticorin is the appellant herein.

2. The 1st respondent herein as plaintiff has filed O.S.No.84 of 2018 for the relief of declaration of title, recovery of possession and for a mandatory injunction for removal of constructions put up by the defendants. Pending suit, the plaintiff had filed I.A.No.107 of 2018 for interim injunction restraining the defendants or their agents from putting up any further construction pending suit. After hearing both the parties, the trial Court has passed an order on 19.06.2019 granting an order of status quo to be maintained during the pendency of the suit. Challenging the said interim order, the present appeal has been filed by the 3rd defendant.

3. According to the learned counsel appearing for the 3rd defendant, the plaintiff has not made out any prima facie case for grant of such an interim order of status quo pending suit. When the possession of the defendant is admitted, such an interim order ought not to have been passed.



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4. Per contra, the learned counsel appearing for the plaintiff had contended that any construction put up by the defendants pending suit would affect the disposal of the suit and the defendants are likely to the plead equity at the end of the trial. Hence, he prayed for sustaining the order passed by the trial Court.

5. I have carefully considered the submissions made on either side and perused the material records.

6. The prayer in the suit is for declaration of title, recovery of possession and for a mandatory injunction to remove the constructions that were already put up by the defendants. Pending suit, an interim order has been granted by the trial Court directing the defendants to maintain *status quo* and not to put up any further construction. This order will enable both the parties to maintain status quo and this order will not affect the rights of both the parties. In fact, the order of status quo is operating as against the 3rd defendant for the past 5 years. The suit is of the year 2018. Therefore, this Court is of the considered opinion that it may not be appropriate to disturb the said interim order. The trial Court is directed to dispose off the suit on or before **31.12.2024**.



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

24.04.2024

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

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To

- 1.The II Additional District Court,
Tuticorin.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.683 of 2019

24.04.2024