



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2025

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THE HONOURABLE MRS JUSTICE T.V.THAMILSELVI

CMA No. 404 of 2024

AND

CMP NO. 4363 OF 2024, CMP NO. 4364 OF 2024

Neetu Mahesh Raheja

W/o. Mahesh Raheja, D/o. Late.

Chaturbuj P. Narang, Raheja Regale, 1
st Floor, No.84, Nepean Sea Road, Opp.
Nepean Sea House, Mumbai 400 006.
D.No.152/1, Belmont road, Fernhill
Post, Ooty 643 004.

Appellant(s)

Vs

1. R. Nandha Kumar

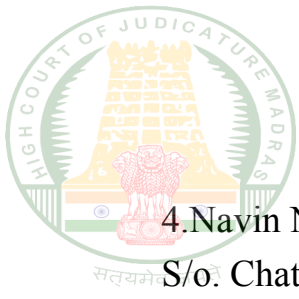
S/o. Late. N. Rajan, No.30D2, Rose
Mount, Ootacamund, The Nilgiris.

2.S.S. Moorthy

S/o. C. Subramani, 7/508, Thalaiundah
and Post, Ootacamund, The Nilgiris.

3.Kiran C Narang

W/o. Late. Chaturbuj P. Narang,
No.322, 14 th Main RMV Extension,
Sadashiva Nagar, Bangalore 560 080.



4.Navin Narang

S/o. Chaturbuj P. Narang No.322, 14 th

Main RMV Extension, Sadashiva

Nagar, Bangalore 560 080.

Respondent(s)

PRAYER:- Civil Miscellaneous Appeal filed under Order 43 Rule 1 of C.P.C. praying to set aside the Fair and Decretal order dated 27.09.2023 made in IA No.1 of 2023 in OS No.33 of 2022 on the file of the District Judge, Nilgiris at Udhagamandalam by allowing this CMA.

For Appellant: Mr. T. Balaji

For Respondents: M/s.S.Patrick For R1 And R2
R-3 And R4 - No Appearance

JUDGMENT

Challenging the impugned order dated 27.09.2023 made in I.A.No.1 of 2023 in O.S.No. 33 of 2022 by the District Judge, Nilgiris at Udhagamandalam, the 3rd defendant preferred this Civil Miscellaneous Appeal.

2. Before the trial court, the respondents 1 and 2/plaintiffs have filed a suit for specific performance against defendants 1 to 3 and the appellant herein is shown as 3rd defendant. According to plaintiffs, the defendants 1 and 2



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entered into a sale agreement with them. According to them, they are absolute owners of the property on behalf of 3rd defendant. As a power of attorney, the 2nd defendant said to have entered into negotiation in respect of selling the suit property and thereafter, the dispute arose. Hence, the suit was filed by the plaintiffs for the relief of specific performance along with other consequential reliefs. On receipt of summons, the defendants 1 and 2 have filed separate written statements and 3rd defendant filed separate written statement disputing the alleged claim made by the plaintiffs. Pending proceedings, the 3rd defendant filed an application in I.A.No.1 of 2023 stating that he is in possession of suit property, wherein the defendants 1 and 2 caused interference as trespassers and also stated that plaintiffs 1 and 2 have no right over the property. Therefore, he sought for temporary injunction against the plaintiffs. The said application was taken on file as I.A.No.1 of 2023 and notice was also served on the respondents 1 and 2/plaintiffs. The plaintiffs sought time to file a counter and they have filed their counter statement on 26.09.2023 and thereafter, the matter was adjourned to 27.09.2023. The learned Judge had passed an order on that day directing both parties to maintain status quo and shall not cause any damages to the property,



and thereafter to mark the documents, adjourned the matter to 11.10.2023. Now,

the said order is challenged by the 3rd defendant by preferring this Civil

Miscellaneous Appeal.

3. The learned counsel for appellant would argue that without considering the documents on their side as well as without considering the relief sought in the application, the trial judge has erroneously passed an order to maintain status quo.

4. The learned counsel for respondents 1 and 2/plaintiffs would submit that originally the suit was filed by them and in that suit, the 3rd defendant filed an interim application stating that they have made trespass in the suit property, but without giving due opportunity to produce the relevant document on their side, the trial judge had passed a non-speaking order. Hence, he raised objections to set aside the same and prayed to remand the matter back to the trial court.

5. Heard and considered rival submissions made by both learned counsel for appellant and respondents 1 and 2 and perused the materials available on record.



6. Considering both side submissions and on perusal of impugned order, the trial judge has granted an order of status quo and adjourned the matter for marking documents, which itself shows that the learned trial judge has not applied his mind and without marking any document on the side of either of parties, the learned trial judge passed an order to maintain status quo as such is illegal, perverse and liable to be set aside. Therefore, the order passed by the trial judge in I.A.No.1 of 2023 in O.S.No. 33 of 2022 is set aside and the matter is remanded back to the trial court. The learned Trial Judge is directed to hear the matter on giving due opportunity to both parties and dispose the I.A. on merit within a period of six weeks from the date of receipt of copy of this judgment. With the said direction, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected Civil Miscellaneous Petitions are closed.

09-06-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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CMA No. 404 of 2024



To

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1. Motor Accident Claims Tribunal, District Court, Nilgiris at Uthagamandalam.
2. Section Officer, VR Section, Madras High Court.



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T.V.THAMILSELVI J.

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