



WEB COPY

A.No.2240 of.



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON 05.06.2025	PRONOUNCED ON 23.06.2025
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CORAM :

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

A.No.2240 of 2025

in

C.S.No.142 of 2019

- 1.P.S.M.T.Hameed Nazrutheen
- 2.K.M.S.B.Fathima Gani
- 3.Narkish Banu
- 4.Khaja Nizamudeen
- 5.Sharila Banu
- 6.Mohammed Niyas

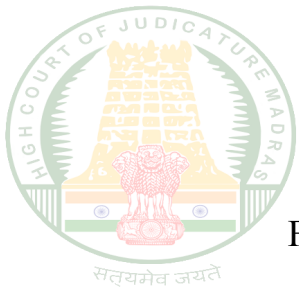
... Applicants

vs.

- 1.P.S.M.T.Syed Abdul Rahman
 - 2.P.K.M.S.Ameena Beevi
 - 3.Sheik Meera
 - 4.Syed Ibrahim
 - 5.Sharmila Banu
 - 6.Mohammed Haja Rizwan
 - 7.S.S.Umar Farook
 - 8.U.Mohamed Haris Thanthasim
 - 9.U.Hafreen Alima
 - 10.Asra Alima (Minor)
- Minor rep., by natural Guardian
and father S.S.Umar Farook

... Respondents

For Applicant : Mr.Avinash Wadhwani for



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Ms.V.Srimathi

For Respondent : Ms.Srividya Aravindan for

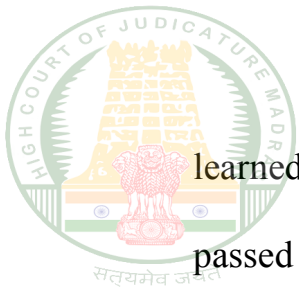
Mr.M.Aravindan

ORDER

This Application had been filed to punish the respondents for their deliberate disobedience of the order dated 12.01.2022 in A.No.2962 of 2020 in C.S.No.142 of 2019.

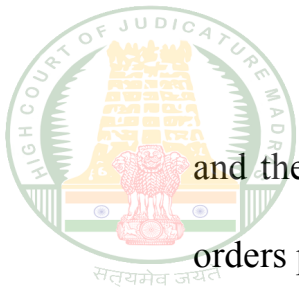
2) Heard Mr.Avinash Wadhwani learned counsel appearing for Ms.V.Srimathi, learned counsel appearing for the applicants and Ms.Srividya Aravindan learned counsel appearing for Mr.M.Aravindan, learned counsel for the respondents.

3) The learned counsel appearing for the applicant would submit that the present Suit had been filed for a partition of the Suit Schedule Mentioned properties among themselves. In respect of certain of the properties, the defendants have claimed independent title and in respect of various other properties, the defendants have conceded to the claim of the plaintiffs, upon which preliminary decree has been passed by this Court. It is his contention that in respect of the remaining properties, the Suit had been placed before the



learned Master for recording of evidence. An order of status-quo had been passed by this Court, originally by its order dated 13.10.2020. By a further order dated 12.01.2022, the said order of status-quo had been reiterated, in respect of the Suit Schedule Properties till the disposal of the Suit.

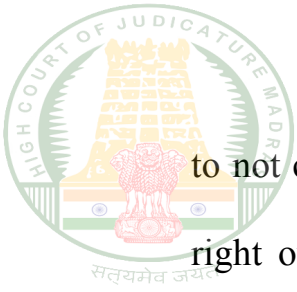
4) He would submit that in one of the Suit Scheduled Properties, the 1st respondent is running a business in the name of style of Hotel Malasiya Inn and that it had come to the knowledge of the applicant, a third party had been inducted as a tenant and the physical features of the said property had been altered without the permission of this Court, which is in violation of the orders of status-quo granted by this Court. In support of his contention, he had relied upon the photographs. He would further contend that the attempt made by the first respondent to claim that the said business is only being run by the Hotel is a farce as the Proprietor of Azees Bhai Kadai, is an independent person, who had been running his business at a different place in T.Nagar and he would not have given his consent for appointment as a Chef under the first respondent in the Hotel. This itself would be suffice to hold that there is not only a violation of the order passed by this Court, but also attempt to mislead the Court by placing fraudulent documents, which would also attract the offence of perjury



and therefore, he prays this Court to punish the respondents for violating the orders passed by this Court.

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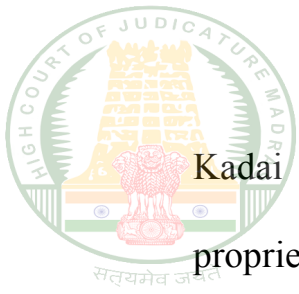
5) Countering his arguments, the learned counsel appearing on behalf of the respondents would submit that the respondents have not violated the orders of status-quo. According to her, Hotel Malaysia Inn has boarding facilities and for which, a restaurant was being run on lease by a third party namely M/s.Subham Foods. A rental agreement was also entered into with the said M/s.Subham Foods and they had also obtained licence from the appropriate Department, which was valid from 19.02.2022 to 18.02.2025. However, in view of the intervening Covid period, the said third party suffered loss and they had consequently closed their outlet in December 2022. Thereafter, the customers of the boarding house were complaining of the non-availability of the restaurant attached to the boarding house, which lead the applicant to have a tie-up with a famous outlet Azees Bhai Kadai and had obtained food safety licence for the said shop in the name of Malaysia Inn and also amended the GST registration by including the trade mark Azees Bhai Kadai also. Therefore, the said hotel is only being run by the first respondent and has not been leased to any third party creating any alienation whatsoever. She would further submit that in a partition suit, an order of status-quo would only mean



to not creating any encumbrance by alienation thereby giving any third party right over the property. She would submit that even assuming there was a lease in favour of a third party, it does not create any substantial right to the third party over the properties of the Suit affecting the interest of other sharers and therefore, there is no violation of orders of status-quo. Hence, she would pray this Court to dismiss the application.

6) I have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

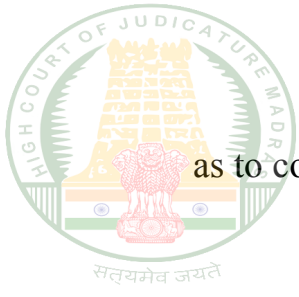
7) In a Suit for partition, an order of status-quo had been granted in respect of all the Suit Schedule Properties. The violation, that is complained off is that the respondents have inducted a third party, which would amount to violation of the orders of status-quo. It is the claim of the respondents that no third party had been inducted and in a place where restaurant was being run by a third party, the first respondent himself, as the proprietor of Hotel Malaysia Inn also decided to run a hotel in the name of Azees Bhai Kadai for which he had obtained a licence from the Food Safety Department in his name and have also amended the Registration Certificate by adding the trade name Azees Bhai



Kadai to the trade mark Malaysia Inn of which the first respondent is the proprietor. They had also produced the certificate issued by the Food Safety Department as well as Sales Tax Department evidencing the claim of the first respondent. From the aforesaid facts, it is clear that no third party interest had been created over the Suit Schedule Properties.

8) Further it is not the case of the applicant that at the time of grant of the orders of status-quo, there was no restaurant that is being run in the premises. According to the respondents, there was a third party who had been running a business at the time, when the orders were passed and after the said third party vacating the premises, the first defendant as a proprietor had started the restaurant. Act of starting a restaurant by the first respondent himself as a proprietor, in this Courts view cannot amount to violation of an order of status-quo, as there has been no alteration of use of the property. Furthermore, as stated supra, there is no third party interest created offending the rights of the applicants/plaintiffs.

9) For the aforesaid reasons, I do not find any merits in this application and accordingly, the same stands dismissed. However, there shall be no order



as to costs.

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Pre-Delivery Order in
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