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OSA NOs. 62 & 63 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03-01-2025**

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THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

OSA NO. 62 of 2021 & OSA NO. 63 OF 2021

AND

CMP NO. 2527 OF 2021 & CMP NO. 2531 OF 2021,

Sambath Kumar

S/o Mr.Pattabi, No.15b, Shunmugam Nagar, Padharikuppam,
Cuddalore 607 401 and 10 Others

Appellant(s)

Vs

Prabhu Ramakrishnan

S/o W.Narasingh Prasad Late, Old N.2, New No.3,
Venkatchalam Chetty Street, Triplicane, Chennai 600 005 and
18 Others

Respondent(s)

CMP NO. 2527 of 2021

Sambath Kumar

S/o Mr.Pattabi, No.15b, Shunmugam Nagar, Padharikuppam,
Cuddalore 607 401 and 10 Others

Appellant(s)

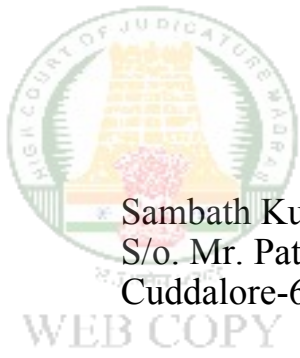
Vs

Prabhu Ramakrishnan

S/o Mr.Pattabi, No.15b, Shunmugam Nagar, Padharikuppam,
Cuddalore 607 401 and 13 Others

Respondent(s)

CMP NO. 2531 of 2021



Sambath Kumar
S/o. Mr. Pattabi, No.15-b, Shumugam Nagar, Padharikuppam,
Cuddalore-607 401. and 10 Others

Appellant(s)

Vs

Prabhu Ramakrishnan
S/o. Mr. Pattabi, No.15-b, Shumugam Nagar, Padharikuppam,
Cuddalore-607 401. and 13 Others

Respondent(s)

OSA NO. 63 of 2021

Sambath Kumar
S/o. Mr. Pattabi, No.15-b, Shumugam Nagar, Padharikuppam,
Cuddalore-607 401. and 10 Others

Appellant(s)

Vs

Prabhu Ramakrishnan
S/o. Mr. Pattabi, No.15-b, Shumugam Nagar, Padharikuppam,
Cuddalore-607 401. and 18 Others

Respondent(s)

Common Prayer: Original Side Appeals filed under Order 36 Rule 11 of Original Side Rules r/w. Clause 15 of the Letters Patent against the common order dated 18.08.2020 made in O.A.Nos.93 and 94 of 2020 in C.S.No.321 of 2019.

OSA NOS. 62 & 63 of 2021

For Appellant(s):

M/s.A.Palaniappan

For Respondent(s):

N/s.S.Pugalendhi

V.Sundarraman

Takes Notice For Rr1 & 2

M/s.A.Shanmugam



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Takes Notice For Rr3 To 12 (Vide C/or Dt:15/02/2021

Mr.M.Murali, Government Advocate for R13

COMMON ORDER

(Order of the Court was made by the Hon'ble S.S.Sundar J.)

These appeals are directed as against the common order of the learned Single Judge in O.A.Nos.93 and 94 of 2020 in C.S.No.321 of 2019 dated 18.08.2020.

2. The plaintiffs, who are the respondents 1 and 2 in these appeals, filed a Suit for partition and for consequential reliefs. During the pendency of the suit, earlier the plaintiffs filed an application for injunction restraining the defendants from alienating the suit property and the same was granted by the Trial Court. After the order of injunction was granted, latter the same was vacated upon the appellants reporting that the plaintiffs based on the interim orders started selling some of the suit properties. It is to be stated that this Court in the appeals in OSA Nos.185 and 186 of 2019, filed as against the order passed in the interim applications for injunction, has held as follows:

"6..Admittedly, after an interim injunction was granted, the



property measuring 44 cents, which is the subject matter of the suit. According to the appellants/plaintiffs, the aforesaid sale is in respect of the property which fell to his share and it in no way deprive the right of the respondents/defendants. Such a contention cannot be gone into by this Court at this stage. The fact remains that the alienation by the appellants/plaintiffs during the pendency of the suit is unwarranted. The interim injunction granted in the suit not only binds the defendants from causing any alienation and such an order will equally bind the plaintiffs as well. The interim injunction is only as against the property and not as against any individual. The reason being, any alienation before adjudication of the merits of the case before the Court would invite third party interference, which would inter alia result in multiplicity of proceedings. In order to avoid the third party from claiming any right over the property, which is the subject matter of the suit, by exercising the discretionary power, Courts can grant interim injunction to ensure that the properties, which are the subject matter of the suit, remains unaltered. When admittedly there is alienation of a portion of the property by the appellants/plaintiffs after obtaining the order of interim injunction, the appellants/plaintiffs are dis-entitled to continue with such an order. Therefore, we are of the view that the learned single judge right in vacating the interim injunction."

3. After the interim injunction was vacated, the appellants have authored a Power of Attorney deed, based on which 98 sale deeds were executed by the Power of Attorney Agent. It is brought to the notice of this Court that in O.A.Nos.93 and 94 of 2020, the learned Single Judge by order dated 18.08.2020 has granted injunction restraining the respondents 11 to 21 from alienating the suit properties, which is the



subject matter of the Suit in C.S.No.321 of 2019 and the 22nd respondent is also

restrained from registering document presented by the respondents 11 to 11 or any other person claiming through them in respect of the suit schedule properties.

Against the said order, the present original side appeals are filed.

4. In this case, having regard to the conduct of appellant and subsequent development, the learned Single Judge has exercised his discretion and granted interim orders restraining further alienation of the properties. Creation of third party right during the pendency of the Suit for partition can be avoided by granting interim order. In this case, the conduct of the appellants shows that the rights of the parties should be protected during the pendency of the Suit. Eventhough an allegation is made against the respondents that they are not cooperating for the disposal of the Suit, it is reiterated by the respondents that they are also prepared to cooperate for early disposal of the Suit itself.

5. Be that as it may, this Court in an application filed under Order 39 Rule 1 of the Civil Procedure Code would require to consider prima facie case, balance of convenience and any injury to the other side by granting interim injunction. In this

case, the learned Single Judge, by applying his mind, has granted interim orders



based on the circumstances. This Court finds no reason to interfere with the impugned order.

6. Accordingly, these appeals stand dismissed, confirming the common order dated 18.08.2020 made in OA.Nos.93 and 94 of 2020 in C.S.No.321 of 2019 and the Trial Court is directed to dispose of the Suit one way or other within a period of six months from the date of receipt of a copy of this order. There shall not be any further elienation by both. There shall be an order of Status Quo till then. No costs. Consequently, connected miscellaneous petitions are also dismissed.

(S.S.SUNDAR J.) (P.DHANABAL J.)
03-01-2025

To

1.Prabhu Ramakrishnan

S/o W.Narasingh Prasad Late, Old N.2, New No.3, Venkatchalam
Chetty Street, Triplicane, Chennai 600 005

2.P.Vishal Prasad

S/o Prabhu Ramakrishnan, Old No.2, New No.3, Venkatachalam Chetty Street,
Triplicane, Chennai 600 005

3.SHYAM KUMAR SHRIVASTAVA (Died)

S/o Late R.P.Shrivastava, Railway Quarters No.Rb-iv/405 A Railway Saurabh
Colony, Kachghar Jabalpur (m.P)

4.Mr.Ram Kumar Shrivastava

S/o Late R.P.Shrivastava, H.No.687, Ner Dr.Arua Bhatnagar Clinic, Near
Sheetalmal, Ghamapura, Jabalpura (m.P)



5.Mr.Sanjay Kumar Shrivastava(died)

S/o Late Late Shrivastava, No.D/225, Maa Narmade Nagra, Behind Swami Aiyappa School Bilheri, Mandala Road, Jabalpur (m.P)

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6.Mrs.Anita Shrivastava

D/o Late Mr.R.P.Shrivastava, W/o Mr.U.K.Shrivastava, No.G/109 Bangala Desh Colony, Ahartal Krishi Nagar, Jabalpur (m.P)

7.Mrs.Sangeeta Setpal

D/o Late Mr.R.P.Shrivastava, W/o Mr.M.L.Setpal, Railway Qtr No.Rn -ii/279/7, 2nd Bridge Prakash Colony, Civil Line, Jabalpur (m.P)

8.Mrs.Rashmi Khare

D/o Late Mr.M.V.Varma, W/o Mr.Vijay Khare, No.90 Quarter, Sanjeevnee Nagar, Jabalpur (m.P)

9.Mrs.Keerthi Shrivastava

D/o Late Mr.M.V.Varma, W/o Mr.Deepk Shrivastava, Behind Shub Motors, Ner Kachh Patiar Samaj, Maha Nada Road, Jabalpur (m.P)

10.Mr.Vijay Kumar Verma

S/o Late Mr.M.V.Varma, No.1728, Wright Town, Infront Of Shakti Apartment, Madhan Maha Station Roda, Jabalppur (m.P)

11.Mr.Ajay Kumar Verma,

S/o Late Mr.M.V.Verma, No.1728, Wright Town, Infront Of Shakti Apartment, Madhan Maha Station Road, Jabalppur (m.P)

12.Mrs.Neeta Shrivastava

D/o Late Mr.M.V.Varma, W/o Mr.Kamlesh Shrivastava, No.90, B Sharada Kunj, Phase Ii, Behind Shravan Kanta State Ayodhaya By Pass P.P.Pipalani, Bhopal (m.P)

13.Sub Registrar

Red Hills, Chennai 52

14.A.K.Nageswara Rao

S/o Kupparam, No.86/1, Baracka Road, Vardammal Grden, Third Street, Kilpauk Chennai 10

15.Priyadarshini Shrivastava

Res At, No.D/225, Maa Narmade Nagar, Behind Swami Aiyappa School Bilheri, Mandala Road, Jabalpur (m.P).

16.Yash Kumar Shrivastava

Res At, No.D/225, Maa Narmade Nagar, Behind Swami Aiyappa School Bilheri, Mandala Road, Jabalpur (m.P).



17.Meeta Shrivastava

W/o. Shyam Kumar Shrivastava Rb/v/355/4, Infront Of Hotel Lovely Inn, Near
Railway Station, Satpura Club Civil Line, Jabalpur (mp)

18.Harsh Shrivastava

S/o. Shyam Kumar Shrivastava Rb/v/355/4, Infront Of Hotel Lovely Inn, Near
Railway Station, Satpura Club Civil Line, Jabalpur (mp)

19.Harshita Shrivastava

D/o. Shyam Kumar Shrivastava Rb/v/355/4, Infront Of Hotel Lovely Inn, Near
Railway Station, Satpura Club Civil Line, Jabalpur (mp).



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S. S. SUNDAR, J.

AND

P.DHANABAL, J.

Jvm

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