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CMA No. 66 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-06-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 66 of 2024

AND

CMP NO. 535 OF 2024

1. S. Manoharan

S/o. Late Sundaramoorthy, No.34, 1/49,
Bazzar Street, Anaikattuu Village,
Cheyyur Taluk, Kanchipuram-603 312.

Appellant(s)

Vs

1. Green Leaf Partnership Firm

Rep. by its Managing partner
Mahendran, Having office at No.104,
Karpagam Apartments, Chidambaram
Street, Ramakrishna Nagar,
Alwarthirunagar, Chennai-600 087.

Respondent(s)

CMP No. 535 of 2024

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PRAYER

To set aside the fair and decreetal order dated 17.07.2023 in IA No.3 of 2023 in OS No.30 of 2023 on the file of the Additional District Judge Kancheepuram District at Chengalpattu and allow the appeal.

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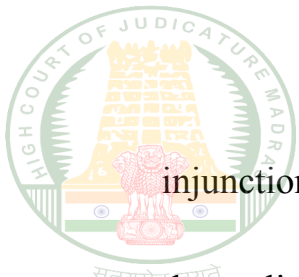
For Appellant(s): Mr.P.L.Narayanan Senior
Counsel For Mr.R.Vigneshkumar

For Respondent(s): M/s.K.M.Mrithun Jayan

ORDER

This Civil Miscellaneous Appeal has been filed to set aside the fair and decreetal order dated 17.07.2023 in IA No.3 of 2023 in OS No.30 of 2023 on the file of the Additional District Judge Kancheepuram District at Chengalpattu.

2. The learned counsel for the appellant submits that without proper appreciation of both facts and law, the court below erroneously granted



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injunction in favour of the respondent/plaintiff, who approached the Court for the relief of specific performance representing himself as Green Leaf Partnership Firm, represented by its managing partner Mahendran. Further, submits that even in the agreement relied by the respondent/plaintiff it was represented as if Mahindran is a proprietor of the said firm not represented as partnership firm as alleged in the plaint but the Trial Court failed to take note of the said fact and granted relief in favour of the partnership firm as such is totally erroneous. Further, he would also argued that by relying the unregistered sale agreement the respondent/plaintiff come forward with the present suit for the relief of specific performance and also claiming possession over the suit property without producing any materials without which trial Court erroneously passed the order. In fact, the appellant is in possession of the suit property. Therefore, the order passed by the Trial Court is liable to be set aside.

3. The learned counsel for the respondent/plaintiff submits that on 20.04.2018 the respondent/plaintiff entered into a sale agreement with the appellant herein/defendant and paid part of the advance amount on various



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occasions to that effect the defendant has made an endorsement. The subject property of the agreement is that near about 6.63 acres as per the terms of the agreement whenever selling the land the defendant has to cooperate for the sale proceedings and near about 2.53 acres were sold. Thereafter, he refused to comply with terms of the agreement hence the necessity arose for him to approach the Court. Considering all these facts, the Trial Court granted relief in favour of the respondent/plaintiff since the defendant/appellant attempted to fence the property which is the subject issue of the agreement. Besides, it is under the possession of the respondent/plaintiff. So, the Trial Court rightly granted injunction restrained the defendant/appellant herein their mens, agent, servants anyone acting on their behalf from in any way laying stones/pillars/fences/compound wall or put up any structure whatsoever in the schedule property pending disposal of the suit.

4. Records perused. It reveals that suit filed for the relief of specific performance by the respondent herein/plaintiff representing as partnership firm



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in the year 2022 after issuance of the summons appellant/defendant appeared before the Court filed his written statement. While pending suit plaintiff sought for temporary injunction against the appellant herein/defendant to restrain him and their mens, agent, servants anyone acting on their behalf from in any way laying stones/pillars/fences/compound wall or put up any structure whatsoever in the schedule property pending disposal of the suit. The defendant attempted to construct fence hence he sought for temporary injunction. The appellant herein/defendant also filed the memo adopting written statement as counter. Considering the both side submissions, the Trial Court has passed an order stating that right of the plaintiff is to be protected and also observed that the agreement between the parties are admitted by both of them. Further, the learned judge concluded that plaintiff is in possession of the property in which the defendant has no power to trespass. Accordingly, granted interim injunction. The said order is challenged before this Court.

5. Admittedly, both the parties not produced any document before the Trial Court, while hearing interim injunction application plaintiff/respondent herein claimed that he is in possession of the suit property as per the terms of



the agreement, which was denied by the appellants. Therefore, burden is upon the plaintiff/respondent to establish that he is in possession of the property.

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Admittedly, plaintiff/respondent herein has not produced the documents to prove his possession before the Trial Court without which Trial Court concluded that plaintiff is in possession of the property as such is erroneous liable to be set aside. Observation made by the trial judge with regard to the agreement is unwarranted one at this stage, it is matter for trial. Hence, the order dated 17.07.2023 passed in IA No.3 of 2023 in OS No.30 of 2023 on the file of the Additional District Judge Kancheepuram is hereby set aside.

6. Considering the fact that there is a agreement between the parties. Hence, the defendant/appellant is directed not to encumber the suit property till disposal of the suit.

7. Accordingly, this appeal is disposed of. No Costs. Pending miscellaneous petition(s), if any, is/are closed.

19-06-2025

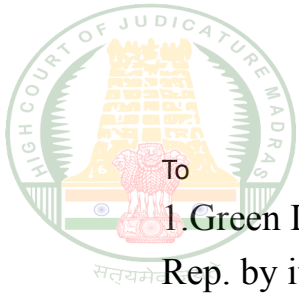
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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Alwarthirunagar, Chennai-600 087.

2. The Section Officer, V.R Section,
High Court, Madras.

3. The Additional District Judge,
Kancheepuram.

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T.V.THAMILSELVI J.
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