

(2017) 10 MAD CK 0026

In the Madras High Court

Case No : 2824 of 2017 & C M P No 16132 of 2017

M.D.Lakishmipathi Naidu, & Ors.

APPELLANT

Vs

M.D.Jagapathy Naidu

RESPONDENT

Date of Decision : 26-10-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 39 Rule 1](#), [Order 39 Rule 2](#)

Citation : (2017) 10 MAD CK 0026

Hon'ble Judges : M.Duraiswamy

Bench : SINGLE BENCH

Advocate : M.Duraiswamy

Final Decision : Dismissed

Judgement

1. Challenging the fair and final order passed in I.A.No.402 of 2017 in O.S.No.73 of 2015 on the file of the District Court II, Kanchipuram, the defendants have filed the above appeal.

2. The plaintiff filed the suit in O.S.No.73 of 2015 for partition and for other reliefs. In the said suit, the plaintiff also filed an application in

I.A.No.402 of 2017 under Order 39, Rule 1 and 2 of CPC seeking for an order of injunction restraining the defendants from alienating the plaint

"C" schedule property till the disposal of the suit. The defendants filed their counter and opposed the application. The Trial Court, taking into

consideration the case of both the parties, granted an order of injunction restraining the defendants from alienating half share of the "C" schedule

property till the disposal of the suit.

3. Aggrieved over the order passed by the Trial Court, the defendants have filed the above appeal.

4. When the matter is taken up for hearing, Ms. K.Jamuna, learned counsel appearing for the appellants, submitted that the defendants have no intention to alienate the property till the disposal of the suit.

5. Since the learned counsel appearing for the appellants submitted that the defendants have no intention to alienate the property, I do not find any reason to interfere with the order passed by the Trial Court in I.A.No.402 of 2017 in O.S.No.73 of 2015.

6. Mr.S.Kamadevan, learned counsel appearing for the respondent submitted that time limit may be fixed to the Trial Court for the disposal of the suit.

7. In that view of the matter, the learned counsel appearing for the appellants submitted that the Trial Court may be directed to dispose of the suit in two months" time.

8. In these circumstances, the order passed in I.A.No.402 of 2017 in O.S.No.73 of 2015 is confirmed. The District Judge II, Kanchipuram, is directed to dispose of the suit in O.S.No.73 of 2015 on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order. It is also made clear that both, plaintiff as well as the defendants, should co-operate for the disposal of the suit within the time stipulated by this court.

With these observations, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.