

C.M.A(MD)No.541 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 08.06.2026

PRONOUNCED ON: 31.07.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.541 of 2026

and

C.M.P.(MD)No.5461 of 2026

1.A.Habib Rahman

2.I.Parveen Banu : Appellants/Respondents/Plaintiffs

Vs.

1.G.Sathyabama

2.G.Ramkumar

3.G.Abinya

4.M.Arumugam

5.VS.Pitchai Ammal

6.VS.Nagaveni

7.VS.Balamurugan : Respondents/Petitioners/Defendants

PRAYER:- Civil Miscellaneous Appeal filed under Order 43 Rule 1(r)
C.P.C., against the fair and decreetal order passed in I.A.No.5 of 2026 in



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O.S.No.474 of 2025, on the file of IV Additional District Judge, Madurai,
dated 13.03.20226.

For Appellants : Mr.C.M.Arumugam

For Respondents : Mr.Pon Senthilkumaran

JUDGMENT

This Civil Miscellaneous Appeal is directed against the order passed in I.A.No.5 of 2026 in I.A.No.3 of 2026 in O.S.No.474 of 2025, dated 13.03.2026, on the file of IV Additional District Court, Madurai under Order 39 Rule 1 C.P.C.

2. The appellants are the plaintiffs. They filed a suit to declare that they are the absolute owners and title holders of the suit property; to declare that the sale deed dated 31.05.1952 vide document No. 3144 /1952 as null and void insofar as 7 cents out of 1.44 Acres and for consequential permanent injunction restraining the defendants and their men from interfering with the plaintiffs' peaceful possession and enjoyment of the suit properties.



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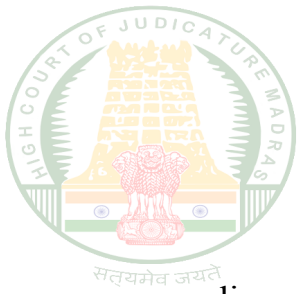
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3. The defendants filed a counter claim seeking to declare that the defendants are the owners of the suit property and for recovery of possession of the suit property from the plaintiffs and for permanent injunction restraining the plaintiffs from in any way alienating the suit property and also to declare that the sale deed dated 15.09.2010, vide document No.3552/2010 is illegal and null and void.

4. Pending suit and counter claim, the defendants filed an application invoking Order 39 Rules 1 and 2 C.P.C., seeking temporary injunction restraining the plaintiffs and their men from putting up any constructions in the suit property pending disposal of the suit.

5. The plaintiffs filed their counter statement opposing for grant of temporary injunction.

6. The learned Additional District Judge, after enquiry, passed the impugned order dated 13.03.2018, allowing the petition and thereby directing both the parties to maintain the status quo on the date as on ground with regard to the physical features of the suit property till the



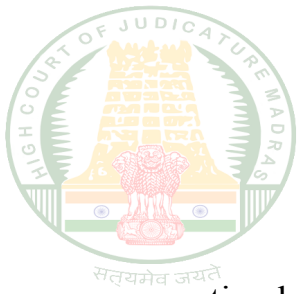
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disposal of the main suit. Aggrieved by the said impugned order, the plaintiffs have preferred the present Civil Miscellaneous Appeal.

7. It is clearly evident from the pleadings of both parties that both parties have claimed title over the suit property. It is not in dispute that since both parties have claimed the reliefs to declare their title over the suit properties, the issue with regard to the title to the suit property can be gone into at the main trial of the suit and not at the present interlocutory stage.

8. Admittedly, the defendants have not disputed the plaintiffs' possession over the suit property, but in the affidavit filed in support of the injunction petition, they have stated that the plaintiffs were the encroachers, that after the filing of the counter claim, they have illegally started to make constructions in the suit property and that therefore, the defendants were constrained to file the above petition seeking temporary injunction. The plaintiffs have filed a counter statement stating that the tin shed which was in existence since their purchase, has become dilapidated and hence they have started renovation by reconstructing the



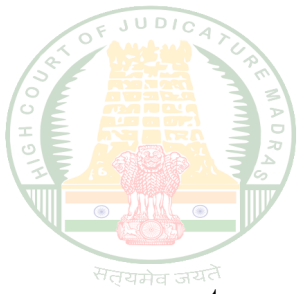
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tin shed in the suit property, that they have rented out the suit property along with tin shed through a registered agreement dated 18.06.2005 and are answerable to their tenant and that since they are having title and possession of the suit property, the injunction petition, which is devoid of merits, is liable to be dismissed.

9. The learned trial Judge, taking note of the nature of the claim made by both parties and the grievance of the defendants, by observing that if any of the party make any constructions would definitely alter the nature as well as the physical features of the suit property and the same would lead to further complications, has come to the conclusion that both parties are to be directed to main status quo with regard to the physical features of the suit property as on ground as of now till the disposal of the suit.

10. During the pendency of the appeal, the appellants/plaintiffs filed an undertaking affidavit wherein they have given an undertaking that they will not put up any further constructions, that they will not claim any independent right over the construction and that they are ready

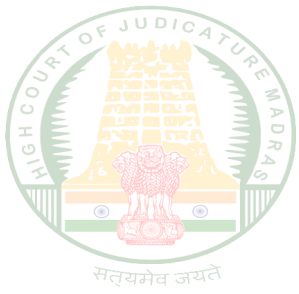


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to request the tenant to deposit the rent before the trial Court. In the said affidavit, they have also undertaken that they are ready to co-operate for the conclusion of the trial proceedings at the earliest point of time. But the learned Counsel for the defendants placed reliance on the judgment of the Hon'ble Supreme Court in ***Maharwal Khewaji Trust (Regd.,) Vs. Baldev Dass*** reported in ***(2004)8 SCC 488*** and contended that the Court should preserve the property in its existing condition and should not permit any party to change the nature of the property.

11. As rightly contended by the learned Counsel for the appellants/plaintiffs, the reliance placed by the learned Counsel for the defendants in Maharwal Khewaji Trust (Regd.,) case referred above, is of no assistance to them, as the principle laid down therein is only that the subject matter of the suit should be preserved and that no party should be permitted to alter the nature and character of the suit property, so as to frustrate the final adjudication. The said object can very well be achieved by accepting the undertaking given by the plaintiffs. It is pertinent to note that the undertaking sufficiently protects the interest of the defendants till the disposal of the suit.

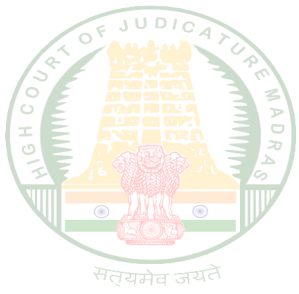


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12. Considering the above, this Court is of the view that the undertaking affidavit filed by the appellants/plaintiffs is liable to be accepted and on that basis, the impugned order of the trial Court is liable to be modified.

13. In view of the above, the Civil Miscellaneous Appeal is partly allowed and the order of the learned trial Judge directing both parties to maintain status quo regarding the physical features of the suit property stands modified. The undertaking affidavit filed by the appellants/plaintiffs shall form part of this judgment. The appellants/plaintiffs are directed to abide by the undertaking given by them and they shall not make any further construction or alter the physical features of the suit property pending disposal of the suit. The appellants / plaintiffs shall not claim any equity or independent right over the constructions existing as on the date and they are further directed to require the tenant to deposit the rents before the trial Court and such deposit shall be subject to the result of the suit. Any violation of the undertaking given by the appellants / plaintiffs shall entitle the



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respondents/defendants to seek appropriate reliefs before the trial Court including recalling or vacating the benefit granted under this judgment. The learned trial Judge shall endeavour to dispose of the suit as well as the counter claim as expeditiously as possible, uninfluenced by any of the observations made in this judgment. Consequently, the connected Civil Miscellaneous Petition is closed. The parties shall bear their own costs.

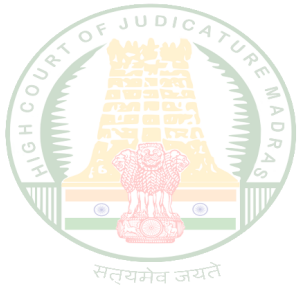
31.07.2026

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

1. IV Additional District Court, Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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