

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).13789-13790/2013

(From the judgement and order dated 20/12/2012 in CMA No.3163/2010 and CRP No.4368/2010 of The HIGH COURT OF MADRAS)

RAJIV NAIDU

Petitioner(s)

VERSUS

V.RADHA KRISHNAN & ORS

Respondent(s)

(With appln(s) for exemption from filing O.T. and with prayer for interim relief)

Date: 18/04/2013 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE SHARAD ARVIND BOBDE

For Petitioner(s) Mr.L.Nageshwar Rao, Sr.Adv.
Mr. Subramonium Prasad, Adv.
Mr.Mani Shankar, Adv.
Ms.Neha Agarwal, Adv.
Mr.Varun Tandan, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

These petitions are directed against order dated 20.12.2012 passed by the learned Single Judge of the Madras High Court in C.M.A.No.3163 of 2010 and C.R.P.(PD) No.4368 of 2010 dismissing the appeal filed for vacating the ad interim order passed by the trial Court and also the revision filed for rejection of the plaint.

We have heard Shri L.Nageshwar Rao, learned senior counsel for the petitioner and perused the record.

In our view, the impugned order does not suffer from any legal infirmity insofar as it relates to dismissal of the appeal filed by the petitioner against the ex-parte injunction granted by the trial Court. However, we feel that the observations made by the learned Single Judge on the merits of the prayer made by the petitioner for rejection of the plaint are not warranted. The learned Single Judge should have, instead of deciding the application on merits, relegated the petitioner to the remedy of filing an appropriate application in the suit before the trial Court.

In view of the above, the special leave petition is dismissed qua the petitioner's challenge to the dismissal of C.M.A.No.3163 of 2010. Qua the order passed in C.R.P. (PD) No.4368 of 2010, the special leave petition is disposed of with liberty to the petitioner to file an appropriate application in the pending suit with a direction that the trial Court shall consider and decide the same totally uninfluenced by the observations made in paragraph 5 of the order under challenge.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master