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C.M.A.(MD)No.330 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.01.2026

Pronounced on : 12.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.330 of 2025

and

C.M.P(MD)No.5848 of 2025

1. Ramachandran,
S/o. Arumugam,
D.No.69C4, Annamalai Nagar,
Keelakarai, Manamadurai Town,
Sivagangai District.
2. Gurumurthy,
S/o. Ganesan,
D.No.39, Pagapath Agraharam Street,
Melakarai, Manamadurai Taluk,
Sivagangai District
3. P.S.R.Kumar S/o. Ramamoorthy,
D.No.57/1,
Sundarapuram Agraharam Street,
Keelakarai, Manamadurai Town,
Manamadurai Taluk,
Sivagangai District
4. K. Murugan,
S/o. Kandasamy,
Door No.262,
Old Ramanathapuram Rastha Street,
Keelakarai, Manamadurai Town,
Sivagangai District.

... Appellants/Respondents 2 to 5/
Defendants 2 to 5



C.M.A.(MD)No.330 of 2023

Vs.

1. Paulraj,
S/o.Chellam,
Old No.4, D.No.27,
Rangarajapuram 2nd Street,
Saidapet,
Chennai-15

... 1st Respondent/Petitioner/Plaintiff

2. Ravisekaran,
S/o. Ramasamy,
D.No.H-6,
Housing Unit Road,
Woriyur, Trichy-3

... 2nd Respondent/Respondent
/1st Defendant

PRAYER: Civil Miscellaneous Appeal filed under Order 41 Rule 1(R) of CPC, to set aside the fair and decreetal order passed by the Fast Track Mahila Court, Sivagangai in I.A.No.1 of 2021 in O.S.No.69 of 2021, dated 09.01.2024 and allow the present appeal.

For Appellants	: Mr.P.Thiagarajan for Mr.S.Bala Karthick
For R1	: Mr.J.Senthil Kumar
For R2	: Mr.M.Sridharan

JUDGMENT

This Civil Miscellaneous Appeal is filed against the fair and decreetal order, dated 09.01.2024 passed in I.A.No.1 of 2021 in O.S.No.69 of 2021 on the file of the Fast Track Mahila Court, Sivagangai.



2. The brief facts of the case:

The appellants are the defendants 2 to 5 in O.S.No.69 of 2021 on the file of the Fast Track Mahila Court, Sivagangai. The first respondent herein has filed the suit in O.S.No.69 of 2021 on the file of the Fast Track Mahila Court, Sivagangai, against the appellants and the second respondent for specific performance in respect of the suit property on the basis of an oral sale agreement made between the first respondent and the appellants on 10.11.2020 and for an injunction not to alienate the suit property. Along with the plaint, he filed petition in I.A.No.1 of 2021 in O.S.No.69 of 2021 under Order 39 Rule 1 & 2 and Section 151 of CPC, for an interim injunction till the disposal of the suit. The petition was resisted by the appellants by filing a counter. After hearing both sides, the Trial Court has allowed the petition in I.A.No.1 of 2021 in O.S.No.69 of 2021 on 09.01.2024, passing an order granting a temporary injunction against the appellants not to alienate the property till the disposal of the main suit.

3. Aggrieved by the order of the Trial Court, the appellants/defendants 2 to 5 moved this Court by way of this Civil Miscellaneous Appeal.

4. Heard both sides and perused the records in this Civil Miscellaneous Appeal.



5. The learned counsel appearing for the appellants has argued that the 1st respondent/plaintiff has filed a suit upon the alleged oral sale agreement made on 10.11.2020 for the sale of suit properties for Rs.86,00,000/-. There is no document filed to show the alleged payment of an advance of Rs.5,00,000/- for the oral agreement. Any agreement relating to immovable property valued at more than Rs.100/- has to be registered as per Section 17(g) of the Indian Registration Act which was amended under the Act 29/2012. In the absence of such registration, the 1st respondent/plaintiff has no *prima facie* case. Moreover, the 1st respondent/plaintiff alleged that he borrowed Rs.25 lakhs from the 2nd respondent/1st defendant and executed a sham sale deed in his favour on 12.09.2012, agreeing that the 2nd respondent/1st defendant would cancel the sale on repayment of the loan by the 1st respondent/plaintiff. The 1st respondent/plaintiff further alleged that when he repaid the loan and called upon the 2nd respondent/1st defendant to cancel the sale deed, the 2nd respondent/1st defendant dragged the matter. According to the 1st respondent/plaintiff, the 2nd respondent/1st defendant executed a consent letter, dated 12.09.2012, in which it is mentioned that the 2nd respondent/1st defendant would execute the sale on payment of the alleged loan within three months. But the 1st respondent/plaintiff has not taken any steps within three months. Much less, he has not taken any coercive steps thereafter from 12.09.2012 till 2021. The appellants/defendants 2 to 5 are



bonafide purchasers from the 2nd respondent/1st defendant by way of a registered sale deed, dated 13.03.2020. There was no oral sale agreement between the 1st respondent/plaintiff and the appellants/defendants 2 to 5 on 10.11.2020. The 1st respondent/plaintiff did not state the above alleged facts in his legal notice. In order to grab the property, the 1st respondent/plaintiff has filed this vexatious suit without any merit. Moreover, the 1st respondent/plaintiff has alleged about the subsequent sale by the appellants/defendants 2 to 5 in favour of 13 other persons, who are not added as parties to the suit. So, the injunction sought against them also is not legally correct. It is settled position of law that based on oral sale agreement temporary injunction cannot be granted because the plaintiff has to prove strong *prima facie* case. In this case, the 1st respondent/plaintiff has not proved strong *prima facie* case. The trial Court has not considered all these aspects, but simply granted temporary injunction against the principles of law. Therefore, the impugned order of the trial Court is liable to be set aside and this Civil Miscellaneous Appeal may be allowed.

6. In support of his contention, the learned counsel for the appellants/defendants 2 to 5 has relied on the following citations:

**(1) 2022 15 SCC 511 in the case of Acqua
Borewell Pvt. Ltd., /v/ Swayam Prabha and**



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Others.

(2) 2020 5 SCC 410 in the case of Ambalal Sarabhai Enterprise Limited /v/ KS Infraspac LLP Limited & Another.

(3) 2020 6 CTC 697 in the case of N.Ramayee /v/ The Sub-Registrar, Registration Department, Salem & Another.

7. The learned counsel for the 1st respondent/plaintiff vehemently contended that the 2nd respondent/1st defendant has not denied the averments of the plaintiff or contested the suit, he only adopted the case of the appellants/defendants 2 to 5. The appellants/defendants 2 to 5 are not the same family members, they are different persons. It is the definite case of the plaintiff that the appellants/defendants 2 to 5 are collusive purchasers for the purpose of the case. The 1st respondent/plaintiff has not sought injunction against the alleged subsequent purchasers from the appellants/defendants 2 to 5, but temporary injunction was only sought restraining the appellants/defendants 2 to 5 from alienating the suit property further till the disposal of the suit. So, the trial Court has correctly and properly appreciated the facts and documents and granted temporary injunction in respect of further alienation by the appellants/defendants 2 to 5. The trial Court has framed issues and the suit is pending for trial. So, the appellants/defendants 2 to 5 can conduct and prove their case in a full-fledged trial. The learned



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counsel for the 1st respondent/plaintiff has further submitted that this Court may direct for disposal of the suit within a fixed timeframe.

8. On hearing both sides and on perusal of records, it is clear that the 1st respondent/plaintiff has filed the suit for specific performance based on an oral sale agreement made on 10.11.2020. On perusal of the plaint averments, the 1st respondent/plaintiff has averred that the oral sale agreement was made between the 1st respondent/plaintiff and the appellants/defendants 2 to 5 in the presence of witnesses Mohan, S/o.Chettiar and Murugan, S/o.Chindulu. The sale consideration was fixed at Rs.86,00,000/- and an advance of Rs.5,00,000/- was paid. Thereafter, the 1st respondent/plaintiff issued Ex.A.8 - legal notice to the appellants/defendants 2 to 5 on 29.04.2021 calling upon them for the execution of the sale deed. Since the appellants/defendants 2 to 5 issued a reply notice denying the same, the 1st respondent/plaintiff has filed the suit for specific performance and filed the petition in I.A.No.1 of 2021 seeking for a temporary injunction.

9. On hearing both sides and on perusal of the impugned order, it is clear that after filing of the suit, the appellants/defendants 2 to 5 have alienated some portions of the suit property to 13 persons from 10.11.2023 to 08.12.2023. It is pertinent to note here that the parties moved this Court in



W.P.(MD)Nos.6675 of 2023 and 14920 of 2023, in which this Court directed the parties to seek their remedy before the civil Court. Hence, the 1st respondent/plaintiff has filed the suit for specific performance. Such being the facts, the appellants/defendants 2 to 5 have alienated some portions of the suit property to 13 persons, which was not denied by them, but they agitated that the 1st respondent/plaintiff has not added them as parties to the suit, so the temporary injunction granted by the trial court is not mandatory.

10.On perusal of the citations relied on by the appellants/defendants 2 to 5, it is clear that an injunction cannot be granted against parties who are not parties to the suit. In the case on hand, an injunction was not granted against the alleged 12 subsequent purchasers, but the same was granted against the appellants/defendants 2 to 5 not to alienate the property further. It is a settled position that in a suit for specific performance based on the oral sale agreement, a temporary injunction can be granted, however it is for the plaintiff to prove his case in the main suit. It is the case of the 1st respondent/plaintiff that he borrowed loan from the 2nd respondent/1st defendant, and for security, a sham sale deed was executed, the same could be cancelled on repayment of the loan, but the 2nd respondent/1st defendant failed to do so despite his consent letter.



11. It is the further case of the 1st respondent/plaintiff that, in order to defeat his rights, the 2nd respondent/1st defendant and the appellants/defendants 2 to 5 have collusively created further sale transactions. Though the appellants/defendants 2 to 5 filed the photocopy of the alleged consent letter of the 2nd respondent/1st defendant, the same can be agitated before the trial Court and decided by it on appreciation of evidences adduced on both sides. This Court cannot give any decision on it at this stage. Hence, as rightly contended by the learned counsel for the 1st respondent/plaintiff and as rightly observed by the trial Court in the impugned order, the 2nd respondent/1st defendant has not contested the injunction petition separately, but simply adopted the counter of appellants/defendants 2 to 5, which has some *prima facie* substance.

12. At this juncture, the learned counsel for the 1st respondent/plaintiff has submitted that the trial Court has framed issues and the suit is pending for trial, the 1st respondent/plaintiff is ready to substantiate his and the trial Court may be given a direction for the disposal of the suit within certain stipulated time frame. The learned counsel for the appellants/defendants 2 to 5 has not raised any strong objection for the same and have not shown any irreparable loss in the case of existence of a temporary injunction against alienation.



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Therefore, this Court has not found any irregularity or infirmity in the impugned order of the trial Court and the same is upheld.

13. In the result, this Civil Miscellaneous Appeal is dismissed. However, the trial Court is directed to dispose of the suit in O.S.No.69 of 2021 within a period of six months from the date of receipt of copy of this order. Both parties are directed to cooperate for trial without seeking any unnecessary adjournments. No costs. Consequently, connected Miscellaneous Petition in C.M.P(MD)No.5848 of 2025 is closed.

12.03.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Fast Track Mahila Court,
Sivagangai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
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