

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE SUNIL THOMAS**

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

FAO.No. 5 of 2015 ()

APPELLANT(S):

- 1. BUSHARA, AGED 32 YEARS
W/O.KULANGARA VEETIL ABDUL KHADER,
ENKAKAD VILLAGE AND DESOM, THALAPPILLY TALUK
THRISSUR DISTRICT.**
- 2. SINDHU AGED 32 YEARS
W/O.PALISSERY MADHU, ENKAKAD VILLAGE AND DESOM
THALAPPILLY TALUK, THRISSUR DISTRICT.**

**BY ADVS.SRI.P.SANTHOSH (PODUVAL)
SMT.R.RAJITHA**

RESPONDENT(S)/RESPONDENTS/DEFENDANTS:

- 1. SARITHA (MENTALLY ILL PERSON)
D/O.MALAYINMEL DAMODHARAN EZHUTHACHAN
ENKAKAD VILLAGE AND DESOM, THALAPPILLY TALUK
THRISSUR DISTRICT REPRESENTED BY GUARDIAN SAJITHA
D/O.MALAYINMEL DAMODHARAN EZHUTHACHAN
ENKAKAD VILLAGE AND DESOM, THALAPPILLY TALUK
THRISSUR-680589.**
- 2. SAJITHA
D/O.MALAYINMEL DAMODHARAN EZHUTHACHAN
ENKAKAD VILLAGE AND DESOM, THALAPPILLY TALUK
THRISSUR-680589.**
- 3. DAMODHARAN EZHUTHACHAN
S/O.MALAYINMEL GOVINDAN EZHUTHACHAN
ENKAKAD VILLAGE AND DESOM, THALAPPILLY TALUK
THRISSUR-680589.**

R1-R3 BY ADV. SRI.BABU CHERUKARA

**THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON
01-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

VS

**THOTTATHIL B. RADHAKRISHNAN
&
SUNIL THOMAS, JJ.**

F.A.O.No.5 of 2015

Dated this the 1st day of July, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

The plaintiffs in a suit for specific performance of a contract for sale are the appellants. They challenge the refusal of the court below to grant an order of temporary injunction against the defendants restraining alienation of the suit property.

2. At the time of admission, an interlocutory order of temporary injunction is seen granted by this Court.

3. Heard.

4. The property appears to be wholly or in part belonging to a mentally challenged person as well. There was an O.P. for guardianship under the Mental Health Act. The court below took the said O.P. and it was decided on 03.03.2008, though it is submitted that it was decided only in 2011. The period

of performance of the contract was four months and therefore, the court below dismissed the application for temporary injunction.

5. There are different aspects of this litigation. An order of temporary injunction has been granted by this Court in this appeal at the time of admission. Beyond that is the fact that the contract for sale relates also to properties of a mentally challenged person. In this background, defendants 2 and 3, who are respondents 2 and 3, undertake before this Court through their learned counsel that they will not alienate the suit property, until the disposal of the suit by the court below.

6. There will be an order of injunction restraining transfer of the interest of the mentally challenged person, namely, defendant No.1 till the disposal of the suit also.

The appeal is ordered accordingly.

**THOTTATHIL B. RADHAKRISHNAN
JUDGE**

**SUNIL THOMAS
JUDGE**