

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.11.2016

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

Original Application No.1254 of 2015

in C.S.No.376 of 2012

1. N.Kumaravel
2. N.Arumugam

.... Applicants

-VS-

1. G.Narasimhan (Deceased)
2. Neelavathi
3. K.Niranjan
4. Rani Dhanraj
5. N.Damodaran
6. N.Sundaresan

.... Respondents

Prayer : Application filed seeking an order of an interim injunction restraining the third respondent herein/3rd defendant in the above suit, his men, agents, servants or any other person or persons claiming through him from alienating Item No.3 of the suit properties more fully described in the Schedule to the Judge's summons by executing any sale deed and by registering the same on the file of the Sub Registrar, Walajapet, Vellore District pending disposal of the above suit.

For Applicants :Mr.M.Sampathkumar

For respondents : Mrs.Auxilia Peter - D3

Mr.K.V.Babu - D5

Mr.A.K.Raghavulu - D4 to D6

D1 & D2 - No appearance

ORDER

This is an injunction application filed by the plaintiff, who had filed the suit for declaration, partition and for separate possession, for interim injunction restraining the third defendant from alienating the Item No.3 of the suit property. The above relief is sought for against the third respondent, who is none other than the brother's son of the plaintiff.

2. Admittedly, the property, for which the injunction is sought for, has been purchased in the name of one Kathirvelu, father of the third defendant. In view of the above facts, when the property stands in the name of an individual, the burden is on the plaintiff to prove that the same was purchased out of the joint family income in the name of the third defendant's father. This said aspect can be tried only in the suit.

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3. It is also admitted that any sale in the above suit will be hit by lis-pendens. Therefore, except the fact that any admitted alienation with respect

to the item No.3 of the suit property by the third defendant will be hit by lis-pendens, no other order can be passed.

4. Accordingly, the above application is closed. The Registry is directed to list the matter before the same Master on 06.12.2016 for recording further evidence.

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PUSHPA SATHYANARAYANA, J

vrc



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