

O.A.Nos.181 and 182 of 2016
in
C.S.No.147 of 2016

M.M.SUNDRESH, J.

In a suit for partition and separate possession, two applications have been filed, one for seeking protection and another for restraining certain respondents from alienation.

2.Learned counsel appearing for the applicants submits that the suit properties are yet to be divided. Now, constructions have been made by some of the respondents and therefore, the applications have to be allowed, more so, when the applicants are the co-owners .

3.Learned counsel appearing for respondents 1 to 3, 5 and 6 submits that the applications are liable to be dismissed for seeking partial partition and seeking injunction only against certain portions of the schedule mentioned properties and for inclusion of unnecessary parties. Learned counsel further submits that the entire suit schedule properties originally belonged to one Vedhanthi Murugappa Naicker, who was the common ancestor to the applicants as well as respondents 1 to 3, 5 and 6. The mother of the applicants filed a suit

in O.S.No.3261 of 1987 on the file of the I Assistant Judge, City Civil Court, Chennai. A final decree was passed on 21.03.2001 pursuant to the memorandum of compromise entered into between the parties. Thereafter, the parties got allotted their respective shares. The decree was also given effect to. Respondents 1 to 3, 5 and 6 after taking possession alienated the shares allotted to them through various parties, who in turn, have put up construction. Reliance has been made on the photographs filed in this regard.

4.As rightly submitted by the learned counsel for the aforesaid respondents, this Court does not find any prima facie case or balance of convenience coupled with possible irreparable loss and the photographs clearly show that the construction has been put up, alienating the suit properties. The documents available also would show that the applicants along with their mother have executed sale deeds in favour of various persons. Prima facie it appears that there appears to be a dispute between the applicants and the 9th respondent in the present application. The relief has also been sought for only against some of the properties. There is nothing on record to show that the applicants are in possession of the properties, which are the subject matter of these applications. Therefore, this Court is not inclined to allow these applications. Accordingly, the applications are

dismissed. However, any alienation or encumbrance henceforth would be hit by the doctrine of lis pendens.

mmi

24.11.2016

M.M.SUNDRESH, J.

mmi

O.A.Nos.181 and 182 of
2016 in C.S.No.147 of 2016

24.11.2016
<http://www.judis.nic.in>