IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 26TH DAY OF JUNE 2019

THE HON'BLE MR. JUSTICE R.SUBRAMANIAN

O.A. No.100 of 2018
in
C.S. No.77 of 2018

1. K.Mohamed Saif,
S/o.(late) Mr.K.Mohammed Kamaluddin,
3288 Brittany Ct, San Jose, CA 95135,
United States of America,
Rep.by his Power of Attorney Agent,
Mr.H.Mohamed Ayaz

2. K.Khudsia Nasreen,
D/o.(Late) Mr.K.Mohammed Kamaluddin,
21/3, Taylors Road, Kilpauk, Chennai 600 010.

3. Athiya Nasreen Viqar,
D/o.(late) Mr.K.Mohammed Kamaluddin,
38655, Grandon St, Livonia MI 48150,
United States of America,
Rep.by her Power of Attorney Agent,
Mr.H.Mohamed Ayaz

4. K.Rafia Parveen,
D/o.(late) Mr.K.Mohammed Kamaluddin,
Royal Mansion, 301/11, First Floor, 36th Cross,
7th C Main Road, 4th Block,
Jayanagar, Bangalore 560011. ... Plaintiffs

-Versus-

1. K.Sajjad Ahmed,
S/o.(late) Mr.K.Mohammed Kamaluddin,
37/14, Damodaramurthy Road,
Kilpauk, Chennai 600 010.

2. Standard Chartered Bank,**(*)**
(Formerly known as the Chartered Bank),
having branch office at No.19,
Rajaji Salai, Parrys,
Chennai-600 001. ... Defendants

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(*)2nd defendant impleaded as per order dated 13.11.2018 in A. No.1789/18.

O.A. No.100 of 2018:-

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   Royal Mansion, 301/11, First Floor, 36th Cross,
   7th C Main Road, 4th Block,
   Jayanagar, Bangalore 560011. ... Applicants/Plaintiffs

-Versus-

K.Sajjad Ahmed,
S/o.(late) Mr.K.Mohammed Kamaluddin,
37/14, Damodaramurthy Road,
Kilpauk, Chennai 600 010. ... Respondent/Defendant

Original Application praying that this Hon'ble Court be pleased to pass an order of ad interim injunction restraining the respondent/defendant and/or any other person (s) claiming through/under him from selling, leasing, renting or in any other manner alienating/encumbering/ transferring/creating any third party right in respect of the Schedule A to E mentioned properties pending disposal of the suit.

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This Original application coming on this day before this court for hearing, the Court made the following order:-

This application has been filed seeking an order of injunction restraining the sole respondent from encumbering or alienating the suit properties pending disposal of the suit.

2. The suit is one for partition. There are five items of properties. The suit 'A' Schedule property belong to 1st plaintiff, 1st defendant and their mother. The suit 'B' Schedule property belong to their father. The suit 'C' and 'D' Schedule properties belonged to their mother. The mother died as early as in the year 2003. The father has died in the year 2017 leaving behind the plaintiffs viz., one son and 3 daughters and the 1st defendant as legal heirs.

3. The plaintiffs apart from seeking partition have also sought for declaration that the settlement deeds said to have been executed by the father on 16.10.2014 and 15.03.2017 settling all the properties in favour of the 1st defendant are invalid and not binding on them.

4. It is seen from the pleadings of the parties that the 1st plaintiff who was living in United States had settled

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his share in the suit 'A' Schedule property on 09.01.2017 on the father. According to the 1st plaintiff this settlement was effected only with a view to enable the father to develop the property. But taking advantage of his absence in India, the 1st defendant had obtained the settlement deed from the father on 15.03.2017 in respect of the entire property.

5. It is also the contention of the plaintiffs that the declaration of gift said to have been executed in the year 2003 by the mother is invalid and it does not bear her signature. The opinions of the handwriting experts also been filed by both the parties.

6. The learned counsel for the plaintiffs/ applicants would point out that even in the year 2016 i.e., on 19.08.2016, the 1st plaintiff had requested his brother, 1st defendant by E-mail not to get all the properties transferred in his name by influencing the father. Copy of the said E-mail has been produced. It very clearly states that don't emotionally blackmail Abba about your health, that you did not got abroad etc. This shows that there was an apprehension among the plaintiffs that the 1st defendant is attempting to create documents and get the properties transferred in his name. The same has ultimately come true.

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7. In view of the above, I see *prima facie* case for grant of injunction in favour of the plaintiffs, inasmuch as the four plaintiffs who are also the children of the deceased K.Mohammed Kamaluddin have been dis-inherited without any reason whatsoever. There is considerable suspicion in the way in which the documents have been executed.

8. I find that the balance of convenience is also in favour of the plaintiffs. Hence, the Interim Order granted in O.A.No.100 of 2018 is made absolute.

Sd./-R.S.M.J
26.06.2019

Certified to be true copy//

Dated at Madras this the day of 2019.

JJ 24/09/2019

COURT OFFICER(O.S.)

From 25th day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this forma**t.**

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