

DIN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 26TH DAY OF NOVEMBER 2018

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

O.A.No.831 of 2018

in

C.S.No.620 of 2018

1.Mr.Sattynarayan

2.Mrs.Manju Bansal

Both residing at:

Flat No.703, 7th Floor

Prince Park

No.76, E.V.K.Sampath Road

Vepery

Chennai 600 007.

...Plaintiffs/Applicants

-vs-

Mr.Kamlesh Jain

Flat No.7A, 7th Floor

Prince Apartment

No.59, Ormes Road

Kilpauk

Chennai 600 010.

...Defendant/Respondent

Original Application praying that this Hon'ble Court be pleased to grant an order of adinterim injunction restraining the Respondent or his agents, executors, legal representatives, successors, assigns etc., from interfering and disturbing the peaceful possession of the Plaintiffs in the schedule mentioned property other than by due process of law.

This Original Application coming on this day before this court for hearing the court made the following order:

Heard Mr.N.D.Bahety, learned counsel for the applicants / plaintiffs and Mrs.Chitra Sampath, learned

Senior Counsel, representing Mr.Vikram U.Jain, learned counsel for the respondent / defendant and perused the materials available on record.

2. Applicants are the plaintiffs in the suit filed for declaration and permanent injunction. Pending the suit, the present application has been filed, seeking an order of ad-interim injunction.

3. The case of the applicants / plaintiffs is that they are the owners of Flat No.703, 7th Floor, Prince Park, No.76, EVK Sampath Road, Vepery, Chennai - 600 007. They had business transactions with the defendant for more than two decades and when they need money, a sum of Rs.1,06,00,000/- was paid by the defendant in the month of July 2015 and instead of preparing a mortgage deed, they obtained signature in a sale deed. According to the plaintiffs, they did not have any intention to sell the property and their signature was obtained in the sale deed by misrepresentation and hence, it is void.

4. The respondent / defendant has filed a detailed counter stating that pursuant to the discussion, the property was agreed to be sold for a sum of Rs.1,06,00,000/- and the payment of Rs.1,04,94,000/-was made by RTGS after deducting of Rs.1,06,000/- towards TDS. It is further contended that on the date of sale, i.e., 31.07.2015, the plaintiffs had also executed a lease

agreement in favour of the defendant and paid a sum of Rs.3,00,000/- as advance and agreed to pay the rent of Rs.30,000/- per month. However, due to non-payment of the rent, the respondent/defendant filed R.C.O.P.No.1506 of 2015 against the plaintiffs for eviction on the ground of willful default.

5. Learned counsel for the applicants would state that the rental agreement is a forged document and there is no proof to show payment of advance amount and the rent. It is further contended that the applicants are still in possession of the property and property tax stands in their name.

6. The learned Senior Counsel, by referring the statement of accounts of the respondent / defendant would argue that the entire payments i.e., security deposit and monthly rent were paid through cheques and if it is the case of the applicants / plaintiffs that it is a mortgage, then absolutely there is no averment in the plaint with regard to rate of interest and interest paid as on date. It is further submitted that the eviction petition came to be filed in 2016, but after lapse of two years, this suit has been instituted with frivolous allegations.

7. It is further argued by the learned Senior Counsel that the property was purchased for the market value and

hence, no proceedings have been initiated under Section 47 of the Stamp Act.

8. In the case on hand, the statement of accounts produced by the respondent reveals that the applicants paid the advance amount and rents through cheques and the sale deed was registered for the guideline value and no proceedings were initiated by the Registration Department, stating that true value of the property is not set forth in the document.

9. Taking note of the facts stated above, this Court is of the opinion that the applicants / plaintiffs are not entitled for ad-interim injunction and in the result, the Application is dismissed.

Sd/- M.K.K.S.J.

26.11.2018

//Certified to be a true copy//

Dated this the                      day of                      2018.

DL/30.11.2018

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

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