

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 20TH DAY OF DECEMBER 2018

THE HON'BLE MR. JUSTICE K.KALYANASUNDARAM

O.A.No.1117 of 2018

in

C.S.No.496 of 2018

V.Damodharan

S/o. Mr.Vijayarajalu

No.2, Nachiyar Amman Koil Street

Chinnakaraiyan Puthur

Pudhuchery - 605 106

...Applicant/Plaintiff

-Vs-

1.R.Shankar

S/o.Mr.Raju

Old Door No.4, New Door No.40

Plot No.1-A (Part) Shymala Vadhana Street

Kodambakkam, Chennai 600 034.

2.Mrs.Kanniammal

W/o.Not known to the Plaintiff

Old Door No.4, New Door No.40

Plot No.1-A (Part) Shymala Vadhana Street

Kodambakkam, Chennai 600 034

...Respondents/Defendants

Original Application praying that this Hon'ble Court be pleased to grant **ad-interim injunction** restraining the Respondents/Defendants their men, servants, agents or anyone claiming through them from putting up any kind of construction, modification, alteration or in any manner dealing with the suit schedule properties pending disposal of the above suit.

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

This application has been filed seeking interim injunction restraining the respondents/defendants their

men, servants, agents or anyone claiming through them from putting up any kind of construction, modification, alteration or in any manner dealing with the suit schedule properties pending disposal of the suit.

2.The applicant has come up with the present suit for recovery of possession and for damages. It is not in dispute that the first respondent is the owner of the suit property and for default in discharging the mortgage deed, the property was brought for public auction and the applicant is a successful bidder in the auction held on 22.10.2016 and a sale deed was executed in his favour on 21.09.2017.

3. Even before the property was brought for auction, the first respondent filed a suit against the mortgagee in O.S.No.11232 of 2010 for bare injunction. After contest, the trial Court decreed the suit on 07.08.2013, however, it was reversed by the first appellate Court in A.S.No.102 of 2014. Thereafter, the first respondent has filed a suit in O.S.No.1383 of 2018, challenging the sale deed and for permanent injunction. The XVI Assistant Judge, City Civil Court, Chennai in I.A.No.8211 of 2018 granted an order of interim injunction restraining the applicant from interfering with peaceful possession and enjoyment of the property.

4.The case of the applicant is that when the sale deed has been executed in his favour, the respondent

instead of surrender the possession to the applicant is making some alterations in the suit property.

5. In the counter filed by the first respondent in paragraph no.9, it is stated that he has not put up any new construction and he makes only alteration for convenient enjoyment of his family members. It is further stated that no permission is required for putting up construction for 300 and 400 sq.ft. The first respondent has also given an undertaking that he had not claimed any compensation, if the applicant would succeed in the suit.

6. Considering the above facts and by recording the undertaking given by the first respondent that he shall not claim any right over the additional alteration made in the suit property in any event, if the applicant succeed in the suit. Accordingly, this application is closed.

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

20.12.2018

//Certified to be a true copy//

Dated this the 10th day of December 2019.

DL/09.01.2019

COURT OFFICER

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