

O.A.No.532 of 2019
in C.S.No.329 of 2019

R.SUBRAMANIAN, J.,

This application has been filed seeking interim injunction restraining the respondents from in any manner alienating or encumbering the properties, subject matter of the suit for partition. The applicants and 5th defendant are brothers of one S.P.Meyyappan who died, leaving behind the respondents 1 to 4 as his legal representatives.

2. The plaintiffs would seek partition of the property that admittedly stood in the name of the deceased S.P.Meyyappan, on the contention that the property was purchased out of the joint family funds and though it stands in the name of deceased S.P.Meyyappan, it actually belongs to the family and hence the plaintiffs and 5th defendant would be entitled in a share.

3. In support of their case, the plaintiffs have produced the audited statement of accounts filed by S.P.Meyyappan from 1960 to 1968 as well as the audited statement of accounts filed by the plaintiffs and the 5th defendant between 1966 to 1983.

4. A perusal of the statements of accounts would show that the income from the suit property has been shown as income of the brothers. It is also seen from the suit document No.7 namely the order passed by the Corporation of Chennai including the names of the plaintiffs and 5th defendant along with that of late S.P.Meyyappan, on 23.02.1987, in the Revenue records relating to the property. It is seen from document no.8 that the suit property is a joint property consisting of four equal shares and Income-Tax and Wealth-tax were assessed in the names of the applicants and 5th defendant along with S.P.Meyyappan who are the sons of late Subramanian. Document No.11 is the declaration made by the deceased S.P.Meyyappan to Indian bank stating that he has only 1/4th share in the suit property.

5. All these facts would atleast *prima facie* established the contention of the applicants that the suit property though standing in the name of late S.P.Meyyappan, belongs to joint family and was treated as such through out. However, after the death of the eldest brother S.P.Meyyappan, the first applicant, wife of late S.P.Meyyappan had executed a settlement Deed, settling the entirety of the suit property in favour of her daughters/ respondents 2 to 4.

6. This action, according to the applicants is only to create evidence as against the claim of the plaintiffs. It is seen from the documents produced that after the execution of the Settlement Deeds the Revenue records have been changed in the name of respondents 1 to 4. In the counter affidavit filed by the respondents 1 to 4, it is claimed that the properties were purchased with the funds of S.P.Meyyappan and the property absolutely belongs to him. The claim is against the documentary evidence that is available on record.

7. In view of the above, I find that the plaintiffs have made out a *prima facie* case and the balance of convenience is also in their favour, since any alienation of the property pending would create unnecessary complication resulting in prolonged litigation. The non grant of an order of injunction will cause irreparable injury to the applicants/plaintiffs.

8. Hence, the order of interim injunction already granted by this Court is made absolute and O.A.No.532 of 2019 is allowed.

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05.08.2019

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