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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.03.2019**

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(MD) No.397 of 2019
and
C.M.P.(MD) No.1971 of 2019

B.Anandhi ... Petitioner/Petitioner/Petitioner/ Plaintiff

vs.

A.Sumathi ... Respondent/Respondent/Respondent/ Defendant

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the docket notice order in I.A.No.2384 of 2018 in I.A.No.2244 of 2018 in O.S.No.299 of 2018 on the file of the learned Principal District Judge, Madurai dated 28.11.2018 and consequently grant an order of injunction restraining the respondent/defendant from alienating and encumbrance the suit schedule property till the disposal of the main suit.

For Petitioner : Mr.J.Jeyakumaran

ORDER

This Civil Revision Petition has been filed to set aside the docket notice order in I.A.No.2384 of 2018 in I.A.No.2244 of 2018 in O.S.No.299 of 2018 on the file of the learned Principal District Judge, Madurai dated 28.11.2018 and consequently grant an order of injunction restraining the respondent/defendant from alienating and encumbering the suit schedule property till the disposal of the main suit.

2.The petitioner, who is the plaintiff contended that the suit property mentioned in the suit belonged to the defendant. The plaintiff entered into the chit fund of the defendant and he paid the monthly due without fail. After paying the final due amount, the plaintiff approached the defendant for chit amount but the defendant did not give any amount to the plaintiff. Thereafter, the defendant approached the plaintiff to sell the said property and the same was agreed by the plaintiff and thereafter, the defendant entered into the sale agreement with the plaintiff on 27.04.2018 for the sale consideration of Rs.11,00,000/- and the defendant received a sum of Rs.5,52,500/- towards the advance from the plaintiff.

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3.Further, the petitioner/plaintiff contended that the defendant has to execute the sale deed within one month after receiving the balance sale consideration of Rs.5,47,500/- and the plaintiff was also ready and willing to performs her part to get the sale deed executed, whereas, the defendant was not ready to perform her part of contract and execute the sale deed in favour of the plaintiff. Hence, the plaintiff has filed a suit.

4.In these circumstances, the plaintiff issued a legal notice on 10.10.2018 and proceeded further. Now, the petitioner/plaintiff apprehends that the defendant is taking active steps to sell the property to third parties for a higher price in utter violation of sale agreement in favour of the plaintiff. Hence, the petitioner/plaintiff filed I.A.No.2244 of 2018 for interim injunction against the defendant not to sell the suit property. In the said I.A., the trial Court ordered notice. Even after receipt of notice in the said I.A., the respondent/defendant is trying to sell the property. Pending I.A.No.2244 of 2018, the petitioner/plaintiff filed the subsequent I.A.No.2384 of 2018 and the trial Court ordered notice to the respondent to the correct address through Court and post.

5.Heard the learned counsel for the petitioner.

6.The petitioner/plaintiff contended that since she paid 50% of the sale amount by advance at the time of entering into sale agreement, she filed I.A.No.2244 of 2018, seeking order of interim injunction restraining the defendant from alienating and encumbering the suit schedule property, till the disposal of the suit, since the defendant herself has violated the agreement in spite of the plaintiff's readiness to get the sale deed executed by the defendant and that she did not co-operate and adopting delaying tactics, whereas, the trial Court ordered notice in the said petition. Apprehending that the defendant would sell the suit property pending suit and since notice only was ordered in I.A.No.2244 of 2018, the petitioner filed another I.A.No.2384 of 2018 seeking status quo order in respect of the suit schedule property.

7.Now, the grievance of the petitioner/plaintiff is that even in the second I.A., the trial Court ordered only notice to the respondent to the correct address. It is contended by the petitioner, notice was already issued to the respondent to the correct address, which was furnished by him in the sale agreement. Now, both the I.As., are stand in the status of the notice to the respondent. Even when the proceedings were conducted in I.A.No.2244 of 2018, the petitioner subsequently filed an another I.A.No.2384 of 2018 seeking for the same prayer. Whether the notice in an earlier application is served and whether the respondent entered appearance was not verified by the petitioner and the subsequent application is also pending and hence, it is for the petitioner to comply with the same with all efforts, but it is observed that still notice is not

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served on the respondent and hence, it is for the petitioner to take effective steps on the respondent and therefore, there cannot be any direction issued at this stage when the trial Court has proceeded with the case in the proper and right manner. Accordingly, the order passed by the trial Court does not warrant any interference of this Court.

8.In view of the above, this Civil Revision Petition is dismissed with cost of Rs.500/-. Hence, the petitioner is directed to pay a sum of Rs.500/- to the credit of Chief Justice Relief Fund within a period of one week form the date of receipt of a copy of this order. The respondent is directed to file his counter before the trial Court immediately and the trial Court shall proceed with the case in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

sd/
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Madurai.

Copy to:-
The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.JEYAKUMARAN, Advocate (SR-52491[F] dated 08/03/2019)

mm
SP/05.04.2019/3P/4C

CRP(MD) No.397 of 2019
07.03.2019

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