

**O.A.No.639 of 2016
in
C.S.No.519 of 2016**

SENTHILKUMAR RAMAMOORTHY, J.

This application is filed for an interim injunction restraining the respondents from directly or indirectly trespassing into or interfering with the peaceful possession and enjoyment of the schedule mentioned property pending disposal of the suit.

2. I heard the learned Senior Counsel for the applicants and the learned counsel for respondents 4 and 5. In spite of service of notice on respondents 1 to 3 and also printing their names in the cause list, there is no appearance on behalf of respondents 1 to 3.

3. The learned Senior Counsel for the applicants submitted that a power of attorney had been executed by the applicants in favour of the second defendant on 22.07.2015 and that the said power of attorney was cancelled on 29.10.2015. Notwithstanding such cancellation, he submitted that the second defendant executed a sale deed on 24.11.2015 in favour of the third defendant and the third defendant, in turn, executed a sale deed on 10.02.2016 in favour of respondents 4

and 5. Consequently, he submits that the sale deeds dated 24.11.2015 and 10.02.2016 are null and void and that declarations have been prayed for in the suit to that effect. Meanwhile, he submits that the suit schedule property is a commercial property which is in the possession of several tenants, including respondents 4 and 5 who are tenants in one portion of the said property. In view of the fact that the conveyance of title to the property in favour of respondents 4 and 5 is prima facie illegal and invalid, he submits that an order of interim injunction should be granted as against respondents 1 to 3 so as to restrain them from interfering with the possession of the present tenants who have been put in possession by the applicants/plaintiffs.

4. The learned counsel for respondents 4 and 5/defendants 4 and 5 submits that respondents 4 and 5 are bona fide third party purchasers for a valuable consideration and that they have filed an independent suit which is pending before the City Civil Court for possession of the suit schedule property. As regards the portions of the suit schedule properties, which are not in possession of respondents 4 and 5/defendants 4 and 5, the learned counsel for respondents 4 and 5/defendants 4 and 5 submits that he would not take any steps to disturb the possession of the present tenants. He

further submits that he is ready and willing for the expeditious disposal of the suit.

5.I considered the submissions of the learned Senior Counsel for the applicants and the learned counsel for respondents 4 and 5/defendants 4 and 5.

6.From the submissions made by the learned Senior Counsel for the applicants/plaintiffs, it appears prima facie that the respondents/defendants 2 and 3 have executed the sale deeds after the cancellation of the power of attorney although definitive conclusions, in this regard, would have to await the trial. It is also not in dispute that tenants of the applicants are presently in possession of the property. Therefore, the balance of convenience is also in favour of not disturbing the possession of the applicants and their respective tenants. As regards respondents 4 and 5, to the extent that they are in possession of a portion of the property as tenants, the learned Senior Counsel for the applicants submits that such possession would not be disturbed.

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7.For the foregoing reasons, there shall be an order of interim injunction against respondents 1 to 3 restraining them from interfering with the possession of the applicants and or their tenants by trespassing into or interfering with the peaceful possession and enjoyment of the schedule mentioned property, pending disposal of the suit. As regards respondents 4 and 5, their undertaking that they will not disturb the possession of the other tenants⁰, is recorded.

List the suit on 22.01.2020.

02.01.2020

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