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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 26TH DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SESHASAYEE

O.A. No.32 of 2015

in

C.S. No.14 of 2015

S.Mohankumar,
S/o.Seshamal Jain,
18, Hunters Road,
Choolai, Chennai 600 112.

... Applicant/Plaintiff

-Versus-

1. B.Gouse Basha,
S/o.Mohd Piyarejan,

2. G.Salman,
S/o.B.Ghouse Basha,
1 & 2 are residing at
2/761, Krishnagiri Main Road,
Veppanapalli Town,
Krishnagiri District.

... Respondents/Defendants

Original Application praying that this Hon'ble Court be pleased to pass an order of ad-interim injunction, restraining the respondents/defendants or their men, agents, servants or anyone claiming through or under them, from in any way altering alienate the suit property to any person.

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



The Plaintiff has filed a suit for recovery of money based on equitable mortgage created in her favour. In this application the plaintiff seeks the order of injunction against the defendant not to alienate security / the suit property.

2.The defendant has filed his counter wherein his primary contention is that the entire documents are fabricated.

3.Whether the documents based on which the plaintiff has laid a suit are fabricated or not can be decided only after trial. So far the present application is concerned, this Court considers that the same is not maintainable. The fact that the property has been given as a security to secure the debt by way of mortgage does not take away the right of the mortgagor to alienate the property. Even according to the plaintiff this is only an equitable mortgage and not a possessory mortgage. In these circumstances, this Court considers that the application filed O.A.No.32 of 2015 is not maintainable and the same is liable to be dismissed.

4.This Application filed in O.A.No.32 of 2015 stands dismissed accordingly.

Sd./-NSSJ
26/07/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

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JJ 4/08/2021