

O.A. No.429 of 2021
in
CS No.95 of 2020

ABDUL QUDDHOSE, J.

The names of the respondents have been printed in the cause list today. Pursuant to the directions given by this Court on 18.08.2021, the plaintiffs effected substituted service through Paper publication for service of notice on R1 and R2.

2. On 14.09.2021, this Court being satisfied that a prima facie case and the balance of convenience has been made out by the applicants / plaintiffs granted an order of interim injunction restraining the respondents from alienating encumbering the suit schedule property in O.A. No.429 of 2021. As seen from the plaint averments, the respondents have created equitable mortgage by depositing all the title deeds with the plaintiff on 18.03.2011. The letter under which the original title deeds were deposited by the first respondent in favour of the plaintiffs is filed as Document No.33 along with the plaint. All the original title deeds pertaining to the mortgage in favour of the plaintiffs have also been filed as suit documents along with the plaint. Despite effecting Paper Publication for service of notice on

respondents / defendants and their names having been printed in the cause list today, there is no representation on the side of the respondents.

3. This Court by its earlier order dated 14.09.2021 only after giving due consideration to the documents filed along with plaint has granted an order of interim injunction in favour of the plaintiffs. This Court has also perused and examined the earlier order dated 14.09.2021 as well as the plaint averments as well as the documents filed along with the plaint by the plaintiff. This Court is of the considered view that a prima facie case has been made out by the plaintiffs for the grant of interim injunction in O.A. No.479 of 2021 and the balance of convenience is also in their favour. Irreparable injury will be caused to them, if further alienation is allowed to happen. As seen from the documents filed along with the plaint, by a sale deed dated 12.09.2014, registered as Document No.980 of 2014, the first respondent, who had created the mortgage with the plaintiffs has alienated the suit schedule property without the knowledge of the plaintiffs to the second defendant. Therefore, this Court is of the considered view that further alienation should be stopped to protect the interest of the plaintiff.

The respondents have not appeared till date. Interim Injunction dated 14.09.2021 is made absolute and O.A. No.429 of 2021 is allowed as prayed for.

4. Registry is directed to post the suit before the learned Master on 06.12.2021 for completion of service in the suit.

08.11.2021

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