



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Monday, the Twenty Fifth day of October Two Thousand Twenty One

PRESENT

THE HON`BLE MS.JUSTICE P.T.ASHA

CMP.No.16643 of 2021

in AS.No.368 of 2021

RAMALINGAM

[PETITIONER]

Vs

DHANUSU

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant an Order of Interim Injunction restraining the Respondent from alienating or encumbering the suit property which is the subject matter of the suit in O.S.No. 96 of 2018 on the file of Additional District Judge (Fast Track) Villupuram (in CMP.No.16643 of 2021) pending disposal of the AS.No.368 of 2021.

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.T.S.BASKARAN, Advocate for the petitioner, the court made the following order:-

The suit has been filed by the appellant for a declaration of right, title and interest in the suit property and to declare the settlement deed dated 12.12.2008 executed by his father Kathavarayan in favour of the defendant, his brother as null and void and for a consequential injunction directing the defendant not to interfere with his peaceful possession and enjoyment of the property.

2. The case of the plaintiff was that the property had been purchased by the funds provided by him in the name of his father and his father was only a name lender. Though the property was purchased in the name of his father he has been enjoying the property by putting up a construction and carrying on his business from the said property. It was only when the defendant attempted to knock down the property after the death of the father that the plaintiff has come to learn about the settlement deed alleged to have been executed by Kathavarayan in favour of the defendant, therefore, the suit.



3. The learned Additional District Judge (Fast Track) Villupuram, in his judgement dated 22.02.2021 had held that the property was not purchased by the plaintiff from out of his income but on the contrary was purchased by the father from out of the joint family income which had been invested in the business. The learned Judge had also observed that the settlement deed executed by the said Kathavarayan was invalid and not legally enforceable, however the learned Judge has gone on to dismiss the suit.

4. The petitioner/appellant has come forward with this petition stating that the respondent is trying to create a third party interest in the suit property and considering the fact that the settlement deed has been held to be invalid by the Court below, the respondent must be restrained by means of an order of injunction from alienating the property.

5. Considering the fact that the learned Trial Judge has held that the settlement deed is invalid in as much as the property has been purchased by Kathavarayan from out of the joint family funds. There shall be an order of interim injunction restraining the respondent from alienating or encumbering the suit property which is the subject matter of the suit in O.S.No.96 of 2018 on the file of the learned Additional District Judge (Fast Track), Villupuram, until further orders.

-sd/-

25/10/2021

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

THE ADDITIONAL DISTRICT JUDGE,
FAST TRACK COURT, VILLUPURAM.

C.C. to MR.T.S.BASKARAN, Advocate SR.NO.6023/2021

Order

in
CMP.No.16643 of 2021
in AS.No.368 of 2021

Date :25/10/2021

From 26.2.2001 the Registry is issuing certified
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PA (09/11/2021)