



C.M.P.No.164 of 2016 & A.S.No.7 of 2016

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S.S.SUNDAR, J.,

and

N.MALA, J.,

[Order of the Court was made by S.S.SUNDAR, J.,]

This petition is filed for granting an order of interim injunction restraining the respondents from creating any encumbrance over the suit property described in the petition which is the subject matter of O.S.No.3 of 2011 on the file of the II Additional District Judge, Chidambaram.

2. The petitioner/appellant is the plaintiff in the Suit in O.S.No.129 of 2010 (which is renumbered as O.S.No.3 of 2011) on the file of the II Additional District Judge, Chidambaram for specific performance.

3. Though the relief for specific performance was refused by the Trial Court, the alternative relief for refund of money paid by the plaintiff under the Sale Agreement was granted by the Trial Court. Aggrieved by the same, the above appeal is filed.



C.M.P.No.164 of 2016 & A.S.No.7 of 2016

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4. In the affidavit filed in support of the petition, except stating that the respondents are trying to dispose of the property, there is no other averments in the affidavit. From the reading of affidavit, this Court is unable to ignore the statement of the learned counsel appearing for the respondents that the petition is filed only to number the appeal. The petitioner has the protection under Section 52 of the Transfer of Property Act. Though this application was filed in the year 2016, no interim order is granted and the property still remains with the respondents. Therefore, this Court is not inclined to grant any interim order after this length of time. However, this Court makes it clear that if the respondents intend to sell or alienate or encumber the suit property, they shall refer to the pendency of this appeal with relevant particulars about this litigation in any documents of conveyance.

5. With the above observation, this civil miscellaneous petition stands dismissed.



C.M.P.No.164 of 2016 & A.S.No.7 of 2016

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6. Post the appeal in the usual course.

[SSSRJ] [NMJ]

12.10.2022

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