



C.M.P.No.1924 of 2016
in A.S.No.170 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.**]

The plaintiff in the suit for partition in O.S.No.49 of 2014 before the Principal District Court, Krishnagiri, is the appellant in A.S.No.170 of 2016. As against the judgment and decree of the trial Court, dismissing the suit for partition on the ground that there had been a partition earlier, the above appeal is filed. Pending appeal, the appellant has filed this petition for grant of interim injunction restraining the respondents 1 to 3 herein from alienating or encumbering the suit properties, morefully described in the suit schedule.

2.The appeal is pending for more than 6 years and there is no interim order granted by this Court. Since the suit is dismissed by the trial Court by holding that there had been a partition earlier, this Court is unable to find a *prime facie* case or balance of convenience in favour of the petitioner/appellant. The petitioner/appellant has a statutory



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protection by virtue of Section 52 of the Transfer of Property Act, 1882.

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Therefore, no serious prejudice will be caused to the petitioner if no injunction is granted. In order to protect the interest of the 3rd parties to this *lis*, this Court is inclined to pass the following order :

The petition is dismissed, however, the respondents shall refer to the pendency of this *lis* with necessary particulars in any document of conveyance or alienation or encumbrance in respect of the properties which are subject matter of this *lis*.

3.Post the appeal for final hearing in the 3rd week of December, 2022.

(S.S.S.R., J.) (N.M., J.)
18.10.2022

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(Post in the 3rd week of December 2022)

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