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*A. Nos.3442 & 3444 of 2021
in C.S. No.660 of 2015*

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N.SESHASAYEE, J.

The suit pertains to the affairs of eighth defendant Trust. It is a private family Trust in terms of its description in the cause title to the suit. This court is informed that the Trust was founded by certain Veeraraghavalu Chetty and the deed of Trust appears to have provided that after the life time of the Founder-Trustee, the succession to the office of the managing trusteeship has to be succeeded to by his wife. There was some argument addressed before the court that Veeraraghavalu Chetty's younger brother Narasimhan has also donated some of his properties for the Trust and there is some dispute as to whether Narasimhan had a role to play in managing the affairs of the Trust.

2. Be that as it may, some persons, who in terms of the arguments submitted before the court, claiming to be the heirs of Narasimhan, appears to have gone on a selling spree of certain properties belonging to the Trust. The 7th defendant, who claims to be the heir of the Founder-Trustee, took exception to this sale and approached this court with W.P. No.20485 of 2019 for a direction



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to the Sub Registrar concerned not to register any of the alienation of the suit properties. This was disposed of by a learned single Judge of this court vide order dated 16.07.2019 by which, the court has directed the petitioner before it/the 7th defendant herein to make necessary application for impleading the necessary party in the present suit. Accordingly, the 7th defendant had come out with an application in A. No.3442 of 2021 for impleading the Sub Registrar and also for an order of injunction along the lines of the prayer in the aforesaid writ petition.

3. On 12.12.2022, this court, allowed A. No.3442 of 2021 and directed impleadment of the SRO concerned.

4. So far as A. No.3444 of 2021 is concerned, this court passed the following order:

" There shall be an order of status quo and no party shall alienate any of the properties of the Trust involved in the litigation, and the Sub Registrar concerned may not register it, notwithstanding the fact that it is his statutory duty to register it, unless the documents sought to be registered as concerning the properties in the suit, is supported by an order



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granting leave to the parties to alienate."

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5. Subsequently, the learned counsel for the plaintiffs submitted before the court that the matter may be listed before the court, since he has some statement to make vis-a-vis the order passed in A. No.3442 of 2021. He submitted that he was not present in the court when the matter was taken up and his junior counsel has not made necessary submission before the court in a manner which the court might appreciate.

6. Though the learned counsel offered to file an application for recalling the order passed in A. No.3442 of 2021, this court directed him to make oral submissions on the matter, since this court remembered too clearly that the learned counsel for the plaintiffs was not heard in the matter on the date when the order was passed. Accordingly, the matter came to be listed subsequently on a few days, but it is taken up for disposal today.

7. The learned counsel submitted that the plaintiffs too support the order of injunction passed in A. No.3444 of 2021 but, without admitting some of the allegations levelled against the plaintiffs. But, so far as the order directing



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impleadment of the SRO is concerned, he is merely a statutory official and his presence is not necessary for the conduct of the suit and that the order of injunction is too comprehensive in its nature and its scope. If he defies the order of this court dated 12.12.2022 in A. No.3442 of 2021, he would invite contempt of court upon himself. He also submitted that the plaintiff being the architect of the suit, he/she is entitled to choose his/her defendant, and a co-defendant may not be added at the instance of one of the defendants, especially when such defendant who is proposed to be added does not have any subsisting interest in the cause of action of the suit. He also added that precisely is an averment made by the defendant in the common counter filed by the plaintiffs in A. Nos.3442 & 3444 of 2021. This statement is recorded.

8. Per contra, the learned counsel appearing for the applicant submitted vis-a-vis alienation is concerned, even the plaintiffs have alienated the property and have settled one of the items of the properties in favour of their sons.

9. Responding to the said allegation against the plaintiffs, the learned counsel would submit that the settlement deed was executed only as a strategy to save the property from land grabbers. Indeed, they did not even know whether those



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who sold the property claiming themselves to be the children of Narasimhan referred to above, are actually his children, and they suspect that such vendor could well be some land grabbers. He added that the settlement deed has been executed by the plaintiffs only to preserve the property in the best way they thought it to preserve it. The said statement of the learned counsel is now recorded.

10. After weighing the rival submissions, this court considers that the order passed in A. No.3444 of 2021 is sufficient and adequate enough to take care of the interest of the Trust and protect its properties. In view of the same, this court deems it appropriate that the presence of the Sub Registrar in the suit may not be necessary. Therefore, this court now recalls its order dated 12.12.2022 passed in A. No.3442 of 2021 and close this petition.

11. Post the suit for framing issues on 02.02.2023.

24.01.2023

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Dated : 24.01.2023