



C.M.P.Nos.8686, 8687 of 2022

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and A.S.No.240 of 2022

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S.SOUNTHAR, J.

The petitioners seek an order of injunction restraining the respondents from alienating to the suit schedule property and also put up any new construction in the suit schedule property pending this appeal.

2. The petitioners / appellants filed a suit for declaration of title and recovery of possession in O.S.No.95 of 2019 on the file of II Additional District Judge, Vellore at Ranipet. The respondents 1 to 4 filed an application for rejection of plaint in I.A.No.4 of 2020 on the ground the relief sought for by the appellants / plaintiffs were barred by limitation. The petition for rejection of the plaint filed by the respondents 1 to 4 was allowed by the Court below after giving a finding that the suit is barred by limitation. Consequently, the plaint was rejected. Challenging the said order the petitioners have come up this first appeal. The relief of declaration and possession sought for by the petitioners before the Court below was rejected by the Court on the ground that the relief was already barred by limitation.

3. In these circumstances, the petitioners are not entitled to any prohibitory order of injunction as prayed for. It is settled law any alienation

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by the party to the modification is subject to the action of lis-pendense.

Therefore, any alienation by the respondents would not effect the right of the petitioners. In view of the fact that the trial Court rejected the plaint presented by the petitioners on the ground of limitation, this Court is not inclined to exercise it's discretion power in respect of the prayer for injunction restraining the respondents from putting up any construction in the suit property. However, the respondents are not entitled to claim any equity in respect of the construction put up by them pending this appeal.

4. With these observations, both the CMP's are dismissed.

19.09.2022

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