



O.A.No.596 of 2021
in
C.S.No.286 of 2021

P.VELMURUGAN.,J

The Civil Suit has been filed by the applicant/plaintiff for recovery of money for a sum of Rs.2,07,83,859/-. During the pendency of the Suit, the applicant has filed the present application to grant interim injunction restraining the respondents, their men, agents, servants and any person claiming through them from alienating, encumbering or otherwise dealing with the Schedule Property.

2. Learned counsel for the applicant submitted that the first respondent/first defendant and the third defendant have jointly and systematically conspired with the fourth defendant to siphon off various amounts which are legitimately due to the applicant by manipulating the invoices that are alleged to have been received by the first respondent/first defendant on behalf of the Hospital. The first respondent/first defendant falsified the accounts of the Hospital by diverting and crediting into the Bank accounts of the second respondent/second defendant and third defendant and thereby, sharing wrongfully gained profits jointly. Now, they are trying to alienate the properties to defeat the claim of the applicant and therefore, the applicant filed this application for interim injunction.



3. Learned counsel for the respondents submitted that the applicant has filed the above suit as a counter blast of the insolvency petition filed by the fourth defendant before the National Company Law Tribunal, Chennai [NCLT, Chennai in CP (IB) No.193 of 2021] During the period, the applicant had stopped the payments to many distributors and slowly released only small amount to some distributors and the applicant stopped huge payment to the fourth defendant. The respondents come to know that applicant has purchased many landed properties without realizing the amount to many distributors including the fourth defendant. No *prima facie* case is made out to grant interim injunction. Therefore, interim injunction granted in favour of the applicant has to be vacated and the application in O.A.No.596 of 2021 has to be dismissed.

4. Heard and perused the records.

5. Though, the application is filed to grant interim injunction restraining the respondents, their men, agents, servants and any person claiming through them from alienating, encumbering or otherwise dealing with the Schedule Property, *prima facie*, the applicant has not proved his case by means of affidavit or otherwise, the respondents are trying to alienate the properties or encumber the properties in order to defeat the claim of the applicant, in case, he gets a decree in the Suit. It is a well settled proposition of law that grant of



interim injunction is the discretionary power of the Court. The party who seeks the relief of interim injunction, has to prove by means of affidavit or otherwise that he has got *prima facie* case, and balance of convenience is also in his favour and if interim injunction is not granted, irreparable injury would be caused to him. But, in this case, the applicant has not proved his case by means of affidavit or otherwise that the respondents are trying to alienate the properties in order to defeat the claim of the applicant.

6. Therefore, from the said facts and circumstances, this Court does not find any *prima facie* case and balance of convenience in favour of the applicant and therefore, the application is liable to be dismissed. While granting interim injunction, the Court must satisfy with all the three ingredients, if there is lack of any one of the ingredients, the applicant is not entitled to get interim injunction. Accordingly, this application is dismissed.

7. Respondents are directed to re-present the written statement which was returned by the Registry, within a week.

8. List the C.S.No.286 of 2021 on 21.03.2022, for framing of issues.

09.03.2022

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