



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Civil Appellate Jurisdiction)

Friday, the Twenty Eighth day of January Two Thousand Twenty Two

PRESENT

THE HON`BLE MR.JUSTICE S.S.SUNDAR

CMP.No.17526 of 2021

IN AS.No.299 of 2021

S.NARAYANAN

[PETITIONER]

PROP. GURU FOUNDATION,
NO.5, PERIYAR STREET,
THIRU NAGAR, ASHOK NAGAR,
CHENNAI 600 083.

Vs

1 G.BALAJI

[RESPONDENTS]

2 DEVI

BOTH ARE RESIDING AT NO.10A/182,
THIRU.VI.KA. STREET, KUMARAN NAGAR,
PADI CHENNAI-600050

(1ST AND 2ND RESPONDENT SET EX-PARTE IN THE TRIAL COURT)

3 THE FEDERAL BANK LIMITED.,

VADAPALANI BRANCH, CHENNAI-600 026.

4 STATE BANK OF MYSORE,

WHITES ROAD BRANCH, CHENNAI-600 014.

(4TH RESPONDENT SET EXPARTE IN THE TRIAL COURT)

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased To pass an order of injunction, restraining the 1st, 2nd and 3rd respondents from in any manner interfering with the peaceful possession and enjoyment of the suit property in OS No.1963/2014 (CS No.880/2007) dated 14.10.2019 and also by creating any third parties interest, (in CMP.No.17526 of 2021) pending disposal of the AS.No.299 of 2021.

SCHEDULE OF PROPERTY XEROX COPY ATTACHED

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.L.CHANDRAKUMAR, Advocate for the petitioner and of MR.N.S.MURALI, Advocate for the Respondents, the court made the following order:-



As against the judgment and decree in OS.No.1963/2014 the above appeal is preferred. The plaintiff is the appellant and the plaintiff filed the Suit for declaration in OS.No.1963/2014 that the Sale Deed executed by him in favour of 1st defendant which was registered as Document No.293/05 at the office of the Sub Registrar, Anna Nagar is sham and nominal and was not acted upon. The consequential prayer is for an injunction restraining the defendants from interfering with the plaintiff's possession and enjoyment of the Suit schedule property.

2.Even in the plaint, the appellant/petitioner has admitted execution of the Sale Deed in favour of the 1st defendant. However, it is the case that the 1st defendant failed to pay the consideration except a sum of Rs.5,000/-. When the plaintiff admitted that a Sale Deed was executed, merely because the cheques which were given by 1st defendant towards balance of consideration was returned for insufficient fund, the document of conveyance cannot be termed as Sham and nominal. For the balance of consideration the right of plaintiff is to proceed against the purchaser and not to claim ownership over the property. Merely because the original document of conveyance was obtained from the defendant, the plaintiff cannot be considered to be the lawful owner of the property. Hence, there is no *prima facie*. It is stated by the respondent bank that defendants 1 and 2 have created successive mortgages by producing fake documents with the convenience of plaintiff. The banks are now holding the property as security for the loan which was advanced to the purchaser of the property for consideration. The balance of convenience is not in favour of petitioner. Hence, this Court is not inclined to grant injunction pending appeal.

3.Hence, this Civil Miscellaneous Petition stands dismissed. Post the Appeal Suit in the usual course.

-sd/-

28/01/2022

/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.



TO

THE XVI ADDITIONAL JUDGE,
CITY CIVIL COURT, CHENNAI.

WEB COPY

C.C. to M/S.L.CHANDRAKUMAR, Advocate SR.NO.565/2022

Order

in
CMP.No.17526 of 2021

IN AS.No.299 of 2021

Date :28/01/2022

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
PA (01/12/2021)
PA (03/02/2022)