



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Second day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice SUNDER MOHAN

CMP(MD) No.2541 of 2023
in
SA(MD) No.108 of 2023

1 S. BEULA ELICY BAI

2 S. STELLA G. JAIN

... PETITIONER/APPELLANTS

Vs

A. ESTHER RETHNABAI (DIED)

A. AUSTIN SOUNDRAKUMAR

... RESPONDENT/RESPONDENT

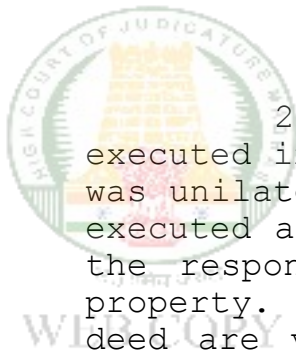
Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to pass an order of INTERIM INJUNCTION restraining the respondents, his men, agents or anybody claiming under him from interfering with the appellants peaceful possession and enjoyment over the schedule property being the subject matter of suit in O.S. No. 12 of 2014 on the file of Learned 2nd Additional Subordinate Judge at Nagercoil, pending disposal of the above second appeal and thus render justice.

PRAYER IN SA(MD) No.108 of 2023:-

To set aside the judgment and decree dated 11.10.2022 passed in A.S. No. 50 of 2017 on the file of Learned Additional District Court (Fast Tack), Nagercoil confirming the judgment and decree dated 24.04.2017 passed in O.S. No. 12 of 2014 on the file of Learned 2nd Additional Sub-Court, Nagercoil.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioner and of M/S.P.SUBBIAH on behalf of the Respondent while admitting the WP, the court made the following order:-

Heard Mr.M.P.Senthil, learned counsel for appearing for the appellants and Mr.P.Subbiah, learned counsel entered as Caveator for the respondent.



2. It is the case of the appellants that the S. it executed in favour of the appellants in the year 1990 by her parents was unilaterally cancelled in the year 2000. Thereafter, the father executed a Will and the mother executed a Release Deed in favour of the respondent in respect of their respective half share in the property. Since the cancellation is illegal, the Will and Release deed are void. The learned counsel for the appellants submitted that if further encumbrance is made in the property, then third parties would be involved and hence, prayed for interim injunction restraining the respondent from making any sale or alienating or encumbrance over the suit property, pending disposal of the appeal.

3. Mr.P.Subbiah, learned counsel for the respondent would submit that it is a residential property in which the respondent is residing and that he would not alienate the property

4. However, considering the fact that the settlement deed in favour of the appellants has been unilaterally cancelled which prima facie appears to be unjustified, the respondent is directed not to alienate or create encumbrance over the suit property, pending disposal of the appeal.

5. With the above directions, this Civil Miscellaneous Petition is disposed of.

sd/-

02/03/2023

/ TRUE COPY /

/03/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

1 ADDITIONAL DISTRICT JUDGE (FAST TACK), NAGERCOIL.

2 2ND ADDITIONAL SUBORDINATE JUDGE AT NAGERCOIL.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-3288[I] dated 03/03/2023)

ORDER

IN

CMP(MD) No.2541 of 2023

IN

SA(MD) No.108 of 2023

Date :02/03/2023