C.M.P.No.3230 of 2024
in
A.S.No.93 of 2024

R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

This petition is for grant of an injunction restraining alienation of the properties subject matter of the suit in O.S.No.66 of 2021 pending disposal of the above appeal.

2. The appellants sued for a declaration that the sale deed dated 17.07.2015 executed by one Ravikumar, who is the husband of the 1st plaintiff and the father of the 2nd plaintiff in favour of the 1st defendant, on a specific claim that no consideration was paid under the said sale deed to the said Ravikumar.

3. Pending suit, an application for injunction has been filed in I.A.No.134 of 2021. Even during the pendency of the injunction application, the 1st defendant had settled the said second item of the property in favour of his mother and sister who were impleaded as the defendants 5 and 6 in the year 2022 i.e., 25.11.2022. Thereafter, the application for injunction in I.A.No.134 of 2021 was taken up for hearing and the learned Additional District Judge, Kancheepuram granted an order of injunction restraining alienation pending disposal of the suit on 08.08.2023.

4. Though it is claimed that the said order was granted on the basis of the concession given by the learned counsel for the 1st defendant, there is nothing on record to reflect such concession.

5. The learned District Judge took up the suit for trial and dismissed the suit on the ground that passing of consideration had been proved by production of Exs.B22 and B23.

6. Exs.B22 and B23 are the Bank statements which relate to the period from 01.04.2017 to 31.03.2018 and from 01.04.2018 to 31.03.2019. We had already pointed out that the sale deed was executed in the year 2015, to be precise on 17.07.2015, and it recites that the entire consideration has been paid on the date of execution. It is also claimed that the TDS to be payable on the sale deed was paid on 03.05.2017. Reliance is also placed on the E-Tax acknowledgment under form 26QB, which shows that the date of payment / credit was on 17.07.2015 and date of tax deduction was on 03.05.2017. Both the above dates are prior to the alleged payment of consideration some time in 2018 and 2019.

7. We find the entire transactions murky. The sale deed is dated 17.07.2015 and the consideration is stated to have been paid according to the bank account during the years 2017-2018 and 2018-2019 viz., Exs.B22 and B23. But, TDS is deducted well ahead of the dates of payment on 03.05.2017. All these in our considered opinion makes out a *prima facie* case and creates a cloud on the execution of the sale deed dated 17.07.2015.

8. Hence, we are convinced that if we permit any alienation pending suit, it will unnecessarily create further complications and hence, we will be justified in restraining the respondents from alienating or encumbering the property until disposal of the appeal. Hence, this petition will stand allowed and there will be an order of interim injunction restraining the respondents from alienating the property subject matter of the suit in O.S.No.66 of 2021 until disposal of this appeal.

(R.S.M., J.) **(R.S.V., J.)**

22.04.2024

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R.SUBRAMANIAN, J.
and
R.SAKTHIVEL, J.

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