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O.A. No. 202 of 2024
and
Application No. 1504 of 2024
and
C.S. No. 62 of 2024

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C.V.KARTHIKEYAN, J.**

Both these applications had originally come up for consideration on 04.06.2024, and on that date, on perusing the records, the learned counsel for the applicant /plaintiff the following order had been passed :-

“ Both the applications have been taken out by the plaintiff who had instituted the suit seeking recovery of a sum of Rs.1,35,00,000/- together with interest at the rate of 12% p.a. from the date of plaint till the date of realization and for costs.

2. The plaintiff is a firm and is a builder represented by its Managing Director. The defendants had contacted the plaintiff. The 1st defendant owned the property at Plot No.AP 260, Door No.54, Alagirisamy Salai, K.K. Nagar,



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Chennai 600 078, measuring about 4,800 sq.ft. After discussion between the plaintiff and the defendants, the defendants had entered into an agreement of sale dated 28.08.2023. The plaintiff had paid advance of Rs.1,30,00,000/- against the total sale consideration of Rs.7,50,00,000/-. There was an obligation on the defendants to vacate the tenants who were in possession of the property and also to produce title deeds of the property relating to 1/8th share of the said property. It is complained by the plaintiff that the defendants were not able to fulfill their obligations within the stipulated period. The agreement was renewed on 26.11.2023, but still the defendants did not perform their part of the obligation. Notices had been issued by the plaintiff and thereafter, frustrated with no further action taken on the side of the defendants, the suit had been filed seeking



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*recovery of the advance amount paid by the plaintiff,
interest on the said amount and for costs and also for
further sum of Rs.5,00,000/- as liquidated damages which
was mentioned in the agreement of sale.*

3. *These two applications have been filed to protect the
interest of the plaintiff seeking a restraint against the
defendants from alienating or dealing with the said
property and also to furnish security to the value of the
suit claim. Notice had been directed to the defendants and
affidavit of service has been filed that the defendants had
left the place. But the names and address of the
defendants had been printed in the cause list. Even the
legal notice issued on the 2nd defendant had been returned
as 'left'. The 1st defendant had received the notice.*



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4. *Taking into consideration the nature of averments made in the plaint and the fact that the amount has been paid consequent to an agreement of sale and there is no repudiation of the same by the defendants, the applications stand allowed. There shall be an order of injunction restraining the defendants from alienating or dealing with the property to the disadvantage of the plaintiff till 05.07.2024. The defendants are also directed to jointly and severally furnish security to the value of the suit. The security to be furnished on or before 05.07.2024.*

”

2. Both the applications are now again listed. The Registry has now put up a note dated 12.07.2024 that the security had not been furnished as on 12.07.2024 by the defendants.

3. There is a representation on behalf of the respondents



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/defendants by a learned counsel, who stated that vakalat had not yet been filed, but on randomly going through the cause list, the learned counsel came to know about the institution of this suit and the pendency of this suit. But a further enquiry should have been done about the nature of order passed. I am not able to understand as to how the respondents could have given instructions for the learned counsel to randomly look at the cause list, especially for this date, unless they had notice of the pending applications.

4. In view of the same, I hold there is no bonafide on behalf of the respondents, which is evident and therefore, in application No. 1504 of 2024, a direction is given that attachment is to be effected in respect of the property which had been described in the schedules to the judges summons viz., property at Plot No. AP 260 Door No. 54, Alagirisamy Salai, K.K. Nagar, Chennai – 600078, measuring about 4800 square feet in Survey No. 281 part, TS No. 168. The attachment may be reflected in the encumbrance of the said property. The Registry may therefore communicate this order to the office of the Sub Registrar, Virugambakkam. The said attachment to be



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effected by the Sub Registrar within a period of 5 working days from the date of receipt of a copy of this order.

5. In O.A. No. 202 of 2024, there shall be an order of interim injunction restraining the defendants from alienating or dealing with the said property, which had been stated above.

6. Both the applications are allowed.

Maya

15.07.2024
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