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O.A.No.712 of 2023
in
C.S.No.654 of 2006

RESERVED ON: 12.12.2023

PRONOUNCED ON: 25.03.2024

A.A. NAKKIRAN, J.

This application has been filed by the applicants to grant an order of interim injunction restraining the 2 defendant, her men, agent from alienating the petition mentioned property which is part of 1" item of suit schedule property, pending disposal of the above Tr.C.S. No.654 of 2006.

2. The learned counsel appearing for the applicants would submit that the applicants herein are the plaintiffs 4 and 5 in the aforesaid Civil suit. During the pendency of the above suit for partition before this court, the 2 defendant/2 respondent herein had executed a Deed of Power of Attorney dated 28.03.2007 appointing one Iyyappan, S/o.Iyyasamy with power including to sell half of the item No. 1 property, ie. 1400 Sq.ft, registered as Doc.No.890/2007, in the SRO Kodambakkam, in pursuance to the said power deed dated 28.03.2007, property measuring 1400 Sq.ft being part of the property mentioned as item No.1 of plaint Schedule property was sold to his wife Jaya Sunitha W/o.A.Iyappan, vide Sale Deed dated 20.09.2007,



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registered as Doc. No.3377/2007, in the SRO Kodambakkam. Subsequently, the 2nd defendant/2nd respondent herein has cancelled earlier power given by her to Iyyappan by Doc.No. 1340/2014. Thereafter, the aforesaid Jaya sunitha W/o.Iyyappan has alienated the said 1400 Sq.ft being part (Eastern side portion) of item No.1 of plaint schedule property to one A.H. Venkatavalavan, S/o.A.K. Janumantharayan, vide Sale Deed dated 13.10.2021, registered as Doc. No.3800 of 2021, in the SRO Kodambakkam. The aforesaid sale deeds were happened pending civil suit before this court. Whatever the transactions happened will not bind the plaintiffs/applicants herein because of pendency of civil suit. It is well settled law that as per Transfer of property Act, it will create lis pendens. Those who were purchased pending suit will get right and title subject to result of suit. The court decree will bind all the purchasers and vendors during the pendency of civil suit.

3.It has been further submitted by the learned counsel for the applicants that even though objection letter was given to Sub Registrar, Kodambakkam, on 01-10-2021 and 05-10-2021 respectively, for not to register the documents in aforesaid mentioned property, the Sub Registrar of



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Kodambakkam in his reply letter, has stated that since there is no interim order from the court, if the documents were presented for registration, he has no power to refuse the registration of document, as per Registration Act and directed the 2nd applicant to approach the competent civil court to get appropriate remedy. Since the application to bring the 2nd applicant herein as party to suit, was pending, he could not in position to get interim order. In the mean time, the aforesaid transaction were happened pending suit and the same was entertained by the Registration Department. While being so, the 2nd defendant/2nd respondent herein executed a deed of power of Attorney dated 13.01.2022, registered as Doc.No.180 of 2022 in favour of the above said A.H. Vengadavalavan, proprietor of M/s.Adhis Construction to develop/construct on the Western side 1400 Sq.ft portion of the item 1 of the plaint schedule of property, these transactions would ultimately lead to multiple litigations and further if any further transactions is done in pursuance of the said Deed of Power of Attorney dated 13.01.2022, then the plaintiff would be put to severe hardship and this execution of power of attorney is nothing but an attempt to further litigate the property particularly with regard to petition scheduled mentioned property which is part of item No.1 of plaint scheduled mentioned property. Pendency of the suit, the 2nd



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defendant/2nd respondent has already alienated property with regard to part of item No.1 of suit scheduled. Now, she made an idea to sell remaining portion of item No.1 of plaint schedule property in whole or as an undivided share of land. She is making speedy arrangement to alienate the property in order to defraud our right over the property. Once the property alienated one after another there will not be end to the litigation. Under such circumstances, the applicants being the co-owner, have every right to enjoy the property. Unless this Hon'ble court grants an order of interim injunction, restraining the 2 defendant from alienating petition mentioned property and not to make any developments on the petition mentioned property, the applicants will be put to irreparable loss and untold hardship. It is therefore prayed that to grant an order of interim injunction as prayed for.

4.The 2nd respondent would submit that she has purchased the said suit schedule property out of her own income and the title of suit schedule property is in the name of the 2nd defendant/2nd respondent. Hence, she has every right to alienate the suit property. Further, the applicants were kept quiet when half of the suit property ie.1400 Sq.ft had already alienated to the third party and now the 2nd defendant tries to sell other portion of the Item No.1 in the suit schedule property, they are objecting with ulterior



motive. Hence, the application is liable to be dismissed.

5. Heard both sides and perused the materials available on record.

6. On a perusal of the records, it is seen that during the pendency of the suit filed in the year 2006, certain portion of Item No.1 in the suit schedule property ie. 1400 Sq.Ft already was sold to the third party. Further, the applicants have not filed the necessary documents to prove their contention and the reasons stated in the affidavit is not acceptable. Hence, this Court is not inclined to entertain the said application as there is no merit.

7. In the result, this application is dismissed.

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