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**C.M.P.No.21864 of 2023**

**in**

**S.A.No.686 of 2023**

**P.T.ASHA.J,**

The unsuccessful plaintiffs have filed the above second appeal. The second appeal had been admitted on 22.09.2023. Along with the second appeal, the plaintiffs had also filed C.M.P.No.21864 for an order of interim injunction restraining the respondents, their men, agents and subordinates from in any manner interfering with the plaintiffs' peaceful possession and enjoyment of the properties.

2.In the affidavit filed in support of the said petition, the petitioners/ appellants would simply state that they are in possession of the property. On account of the dismissal of the suit, the respondents were attempting to disturb their possession. Apart from the above statement, there is no other pleading.

3.The first respondent/first defendant had filed a counter *inter-alia* contending that the plaintiffs are not in possession of the suit properties and the plaintiffs did not have the benefit of an injunction pending the suit or the appeal. Further, the plaintiffs have not filed any document to show that they



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are in possession of the suit properties. The first respondent would further submit that the very basis on which the plaintiffs have instituted the suit has not been proved by them. The respondents would further submit that originally, the 3<sup>rd</sup> petitioner had filed a suit O.S.No.8333 of 1992 on the file of the City Civil Court, Chennai against the 1<sup>st</sup> respondent in respect of a land measuring 1 acre 21 cents in S.Nos.135/1 and 135/4 of Kolathur Vilalge for permanent injunction. The suit was decreed in favour of the plaintiffs against which the defendants therein had preferred A.S.No.119 of 2000 before the XVI Assistant Judge, City Civil Court, Chennai. The appeal was allowed and the judgment and decree of the trial Court was set aside against which the plaintiffs have not filed any second appeal. Therefore, the judgment in A.S.No.119 of 2000 has become final. The first respondent would further contend that both the Courts below have found that the petitioners are not in possession of the suit properties. Therefore, they have sought for dismissal of this petition.

4.Heard the learned counsels on either side and perused the materials available on record.

5.The lower appellate Court had observed that the plaintiffs have



come to Court suppressing the fact of the earlier suit filed by them. The documents which have been marked on the side of the plaintiffs to show their possession namely Exs.A12 and A13 reveal that the plaintiffs are residing in the address mentioned in the document. However, the document does not provide any details about the survey number or the extent of the properties. That apart, the plaintiffs had not produced the patta, chitta, adangal etc or any other revenue documents to show their possession.

6. In the light of the above categoric finding and taking note of the fact that both the Courts below have rejected the plea of the appellants/plaintiffs with reference to possession, the appellants have not made out any case for the continuance of the order of injunction already granted by this Court. Accordingly, the interim injunction granted by this Court on 22.09.2023 stands vacated. Consequently, this C.M.P is dismissed.

13.02.2024

srn

**P.T.ASHA.J,**



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