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OA NO. 9 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-12-2024

CORAM

THE HONOURABLE MR JUSTICE A.A.NAKKIRAN

OA NO. 9 of 2019

IN

CS NO. 11 OF 2019

Dr.M.A.M.Ramaswamy Chettiar of Chettinad Charitable Trust,
Represented by its Managing Trustee Dr.A.C.Muthiah (aged 76
years) Chettinad House, R.A.Puram, Chennai 28

Applicant(s)

Vs

M.A.M.R.Muthiah
5th Floor, Rani Seethai Hall Building, 603-Anna Salai, Chennai
600 006 and another

Respondent(s)

For Applicant(s):

M/s.S.Sithirai Anandam,

For Respondent(s):

:Mr. T. Balaji for R1

: Mr. K.V. Babu for R2

ORDER

This application has been filed to pass an order of ad- interim injunction restraining the respondents 1 & 2, their men, agents, servants, and anyone claiming under or through them from in any manner creating any third party rights, encumbrance, transfer, alteration of revenue and other records of the suit property item 1 to 5 described in the schedule pending disposal of the above suit and pass such further or other orders as may deemed fit and proper

in the circumstances of this case and thus render justice.



2.The learned counsel for the applicant submits that the Applicant trust was created by one

Dr.M.A.M.Ramaswamy, S/o. Sir.M.A.Muthiah Chettiar through and by a deed of declaration

of Trust dated:09.02.2015 which is registered in Doc. No.5/2015, SRO Mylapore. In the

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Trust, the trustees are (i) Dr.M.A.M.Ramaswamy Chettiar (ii)Smt.Kumararani Meena

Muthiah, (iii) Dr.A.C.Muthiah (iv) Mr.Ashwin C.Muthiah and (v) Mr.AR.L.Sundaresan.

Dr.M.A.M.Ramaswamy expired on 02.12.2015 and thereafter the remaining four trustees are

managing the Applicant Trust. It is further submitted that Dr.M.A.M.Ramaswamy Chettiar

was the son of Sir.M.A.M.Muthiah Chettiar (died on 12.05.1984) and Rani Meyammai Achi

(died on 01.03.1970). The said couple had another son namely one Mr.Kumara Raja Muthiah

Chettiar, (died on 24.01.1970).

3. It has been further submitted that the 1st respondent herein falsely claims to be the adopted

son and heir of Late.M.A.M.Ramaswamy Chettiar. Mr.M.A.M.Ramasamy was harassed and

tortured by the 1st respondent when he was alive. Mr.M.A.M.Ramasamy had publicly and

openly disowned and disavowed the 1st respondent during his life time. While

Mr.M.A.M.Ramasamy executed a Will dated.18.02.2015 registered as document No.16 of

2015 in the SRO, Mylapore, the 1st respondent settled the items 1 to 5 of the siot schedule

properties to the 2nd respondent which is invalid, unlawful, void and not binding Applicant



Trust. The 1st respondent has wilfully and fraudulently suppressed the Will date

executed by Mr.M.A.M.Ramaswamy and executed the above settlement deed in favour of the

2nd respondent for mala-fide reasons. The said settlement deed is neither valid nor binding on

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the applicant. However the 1st respondent is attempting to create and obtain revenue documents in his favour and mutate records and create encumbrances and third party rights regarding the properties enumerated as item 1 to 5 which are in the sole and lawful possession of the applicant trust. Hence, he seeks the relief as prayed for.

4.On the other hand, the learned counsel for the 1st respondent takes strong objections to the declaration of the Trust as alleged to have been executed by 1st respondent's father, Late Dr. M.A.M. Ramaswamy. The said declaration of Trust itself is a mechanism designed by Mr. A.C. Muthiah, for the specific purpose of grabbing the family properties of Late Dr. M.A.M. Ramaswamy, who have formed the alleged Trust only on paper. The allegation in the affidavit that 1st respondent has falsely claimed to be the adopted son of Dr. M.A.M. Ramaswamy is untrue to the knowledge of Mr. A.C. Muthiah and the same is false and frivolous. As per law, there is no bar conveying the properties vested in the 1st respondent in favour of his son. The Applicant Trust has not been successful in probating the alleged Will of late Dr. M.A.M. Ramaswamy and the same is pending adjudication in T.O.S. No. 27 of

2021 before this Hon'ble Court.



5.It has been further submitted that a third party to the Settlement Deed cannot challenge its validity and that the 1st respondent has every right to execute a document in favor of his son.

In the settlement deed executed on 18.05.2016, it is settled 1st respondent's share of the valuable holdings in favor of his only son. The Applicant has omitted one of the properties mentioned in the Settlement Deed and only seeks for an Injunction for five properties. The Settlement Deed which is under challenge in the above suit is perfectly valid as per law and as discussed in the above paragraphs. As a prima facie case is in favour of the 1st respondent and the balance of convenience is also in his favour, the present application is liable to be dismissed with costs.

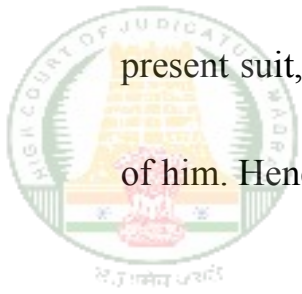
6.The learned counsel for the 2nd respondent submits that the suit property has been settled by the 1st Respondent in favour of the 2nd Respondent under a valid Settlement Deed. The suit properties have been inherited by the 1st Respondent in his capacity as the only legal heir of Dr.M.A.M.Ramasamy Chettiar and in his capacity as the absolute owner, being the legal heir of Dr.M.A.M.Ramasamy Chettiar, the Settlement Deed was executed and registered in favour of the 2nd Respondent. Thus, by virtue of the said Settlement Deed, the 2nd Respondent has become the absolute owner of the suit property. After five years of filing the suit, the

Applicant apprehends that the Respondents will deal with the property and such a plea is



strange in nature. In fact, after filing of the suit in the year 2019 till this day, no
or transfer whatsoever has taken place over the suit property. Besides, the suit property is
undivided in nature and not by metes and bounds and the extent of the suit property is also
huge. The Settlement Deed was much earlier to the Applicant instituted the O.P. for the grant
of Letters of Administration.

7. It has been further submitted that there is no bar in executing the Settlement Deed before
the Sub Registrar, Negamam, since one of the properties covered under the Settlement Deed
situate within the jurisdiction of the said Sub Registrar's office. The Settlement Deed was
executed on 08.05.2006, which was much earlier to the filing of O.P. for Letters of
Administration. The Applicant has to clear the cloud over the execution of the alleged WILL,
which was executed in a suspicious, surreptitious, surrounding circumstances. The alleged
WILL and as well as the creation of the alleged Trust has been created in a suspicious
manner, since during the said period, the grandfather of the 2nd Respondent is not keeping
good health. The two witnesses in the documents are all servant maid. In any event, the
grandfather of the 2nd Respondent would not have ventured in calling the servants to attest
the WILL and Deed of Declaration. There is no title derived in the hands of the
Applicant/Plaintiff to maintain the instant suit and as well as the Application. After filing the



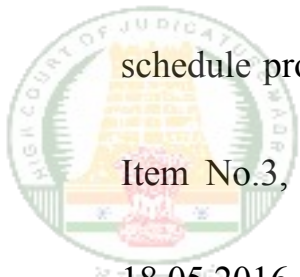
present suit, the 2nd respondent has not alienated the suit property which is set our of him. Hence, the Application is liable to be dismissed with costs.

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

9. On perusal of the records, it is seen that Dr.M.A.M.Ramasamy Chettiar died on 02.12.2015. His wife predeceased him. It is alleged that during his life time, he executed a Deed of Declaration of Trust dated 09.02.2015 which is registered as Document No.5 of 2015 in SRO, Mylapore. Thereafter, he executed a Will dated 18.02.2015 which is registered in Document No.16 of 2015 in SRO, Mylapore, bequeathing various movable and immovable properties as mentioned in the Will in favour of the applicant Trust. In such circumstances, the Trustees of the Trust filed probate petition in O.P. No.894 of 2016 seeking to probate the Will in which the 1st respondent filed Caveat opposing the probate of the Will and the same has been converted into TOS No.27 of 2021 which is still pending before this Court for disposal.

10. It is alleged that after the demise of Dr.M.A.M.Ramasamy Chettiar, the 1st respondent being adopted son, has executed settlement deed by settling his own shares in the suit



schedule property whereas 6/32 shares in Item 1, 15/16 shares in Item No.2, 15/16 shares in

Item No.3, 1/2 share in Item Nos.4 and 5 in his son favour. Vide settlement deed dated

18.05.2016 which is registered in Document No.1689 of 2016 in SRO, Negamam, before

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filing of the aforesaid O.P by the Applicant. Having come to know the aforesaid Settlement Deed, the applicant/plaintiff filed the present suit in C.S.No.11 of 2019 seeking for declaration of the settlement deed is invalid, void and illegal and does not bind the plaintiff in respect of the Item No.1 to 5 since they are related to the Will dated 18.02.2015 along with the present application seeking for interim injunction.

11. Having considered facts and circumstance of the case and considering the two suits in C.S. No.11 of 2019 and TOS No.27 of 2021 which are still pending before this Court for final disposal, in respect of Items Nos.1 to 5 of the suit schedule mentioned properties and also in the interest of Justice, this Court is inclined to pass an order of Status-Quo to protect the rights of both parties till the disposal of both suits.

12. In the result, the Application is partly allowed. No costs.

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Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

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A.A.NAKKI



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