

O.A.Nos. 836 & 837 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
27.02.2025

PRONOUNCED ON
01.04.2025

CORAM

THE HONOURABLE MR JUSTICE K.KUMARESH BABU

O.A.Nos.836 & 837 of 2024

in

C.S.No.258 of 2024

O.A.No. 836 of 2024

1.P.Mahendra Babu
2.G.PReetha
3.Balaji Chelvaraj

... Applicant(s)

Vs

1.Suresh Babu Srinivasan
2.S.Yuvaraj
3.Ram Narayan Chandrashekar
4.Sneha Venkataraman

... Respondent(s)

For Applicant(s) : Mr.A.Sundaravadhanan

For Respondent(s): Mr.A.Thiagarajan for RR1 & 2
Unserved – RR3 & 4

ORDER

The suit is primarily for a partition and separate possession among the parties to the suit, two applications have been taken



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out by the plaintiffs to grant ad-interim injunctions restraining the respondents/defendants from alienating, damaging, mortgage, removing, disposing and to put up any construction, building, developing, renovating the schedule mentioned property.

2. Mr. A.Sundara Vadhanan, the learned counsel appearing for the applicant would submit that the suit schedule-A properties were purchased out of the joint family properties by one R.Janardhanam, who is the grandfather of the plaintiffs and defendants 1 & 2. He had also purchased various properties at Bengaluru during his lifetime. The wife of R.Janarthanam, Vittabai Ammal had disposed of certain properties and had purchased the schedule-B property in her name and her son's name. He would submit that the plaintiffs are the children through the daughters of the said Janardhanam and Vittabai and defendants 1 and 2 are the children through their son. The schedule-C property was also purchased by the wife of Janardhanam in the name of their son.

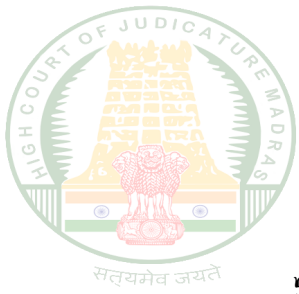
3. He would also draw attention of this Court that while purchase of the schedule B and C properties Mr.Srinivasan, the father of the defendants 1 & 2 was a minor and had no



independent income for the purchase of the property in his name.

Therefore, he would submit that the plaintiffs also have a share in the properties mentioned in the suit schedule. He would submit that in respect of B-schedule properties, the same had been sold to the third and fourth defendants herein.

4. While that being so, the second defendant had approached the plaintiffs during the third week of June 2024 for a consent/ no objection to deal with the suit properties. It had come to the notice of the plaintiffs that the grandmother/ Vittabai had executed a Will bequeathing her share in the B-schedule property in favour of defendants 1 and 2 and that the same had been probated in O.P.No.552 of 2001. In the said proceedings the other legal heirs of Vittabai not put on notice and hence, necessary steps are being taken to revoke the said Probate. He would further submit that the defendants 1 and 2 are also trying to alienate the other suit properties. He also claims that if the third and fourth the defendants are permitted to put up construction in the B-schedule property, they would claim equity. Therefore, he prays this Court for grant of necessary injunction as prayed for to protect the interest of the applicants.



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5. Mr.A.Thiagarajan, learned counsel appearing on behalf of the respondent on the other hand would contend that the properties that were purchased by the grandmother/ Vittabai was not from the income that had been derived from the property belonging to the grandfather, but had been purchased solely based upon the sreedhana given by her parents as well as from her own savings. The income that was derived from the property belonging to the grandfather was only used for maintaining the family as the son and daughters were minor at that point of time.

6. He would also submit that there was a family arrangement between the parties upon which the Release Deeds were also executed by the mothers of the plaintiffs. Such Release Deed was executed in favour of the Vittabai, the grandmother and the father of the defendants 1 & 2. He would also contend that the applicant's mothers were settled with properties even during the lifetime of the grandfather which was also the reason for the execution of Release Deeds, apart from the payment of Rs.15,000/- each to the paternal aunts. He would also refute the contention of the learned counsel for the applicant that the suit



properties are joint family properties. Under these circumstances, he would pray this Court to dismiss the injunction applications as being to be in nature of unjustly enriching themselves.

7. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

8. Admittedly, the Schedule-B properties has been sold to defendants 3 & 4. The B-schedule properties had been purchased in the name of the grandmother/ Vittabai and father of defendants 1 & 2. Vittabai had also executed a Will which had been probated before this Court in which the beneficiary was the father of the defendants 1 & 2. In such view of the matter as regards schedule-B property this Court does not find any *prima facie* case for grant of injunction in respect of schedule-B property.

9. The Schedule-A property had been purchased by the grandfather of the plaintiffs and the defendants 1 & 2. Even though, an attempt had been made by the plaintiffs that the mother of the plaintiffs had not executed any Release Deeds as claimed



by the defendants 1 & 2, when the respondents/ defendants 1 & 2 had categorically in their counter had indicated that the mothers of the plaintiffs were settled with various properties even during the lifetime from their father and that during the lifetime of the mothers of the plaintiffs they would not have sought for any partition and also of the fact that their grandfather had died in the year 1956 and that their grandmother/ Vittabai died in the year 1997 and that after nearly three decades, the present suit seeking for partition had been filed by the children of the daughters of the deceased Janardhanam when the daughters have allegedly executed the Release Deed in favour of the Vittabai and J.Srinivasan.

10. It is also admitted that the suit schedule-C property had been purchased in the name of the father of the defendants 1 & 2. The applicants/ plaintiffs claim that the father of the first and second defendants had no source of income at that point of time to purchase the property and that the property could have been purchased by the income that had been realised by the grandmother from the property belonging to their property, the same should be treated as a joint family property. On the other



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hand, it is the case of the applicants that the Schedule-C property was purchased out of sreedhana property given to their grandmother and out and from her own earnings, the same could not be said to be a joint family property. From the above, *prima facie* this Court is of the view that the father of the defendants 1 & 2 had not purchased the property from his own income and that the same had been purchased from the monies belonging to the grandmother/ Vita Bai. Therefore, this Court is of the view that the plaintiffs had made out a *prima facie* case only in respect of the Schedule-C property. Since, *prima facie* case has been made out and if the defendants 1 & 2 deal with the property it would definitely cause undue hardship and irreparable damage to the plaintiffs and therefore, as a balance of convenience for grant of injunction in respect of Schedule-C property alone.

11. In fine, the Original Applications are allowed in part by granting injunction only in respect of Schedule-C property and in respect of Schedule -A & B properties, injunctions stand dismissed.

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Index: Yes/No

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K.KUMARESH BABU., J

Gba

Pre-Delivery Order in
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