

I.A.No. 2/2023
O.S. No.152/2023

Dated :09.06.2023

Order 39 Rule 1 & 2 of CPC

Heard. Records perused. The averments made in the plaint and documents filed thereon perused. The learned counsel for the petitioner/plaintiff contented that the suit property belongs to the 1st respondent/defendant. The petitioner/plaintiff and the 1st respondent/defendant are relatives. The 1st respondent/defendant executed a lease deed to an extent of 5.5 acres of land in favour of the petitioner/plaintiff. Copy of the lease deed dated 15.03.2000 is produced as plaint Doc.No.1. When the petitioner/plaintiff was in possession and enjoyment of the property the 1st respondent/defendant entered into a sale agreement on 25.05.2020 by receiving sale consideration of Rs.2.75,000/- from the petitioner/plaintiff and handed over the possession of the suit property to the petitioner/plaintiff. Copy of the sale agreement is produced as plaint

Doc.No.2. The petitioner/plaintiff was in peaceful possession and enjoyment over the suit property.

The petitioner/plaintiff is in continuous possession and enjoyment of the suit property. The 1st respondent/defendant permitted the petitioner/plaintiff to enjoy the suit property without any hindrance. The petitioner/plaintiff when requested the 1st respondent/defendant to execute a sale deed in favour of the petitioner/plaintiff. The 1st respondent/defendant one way or the other failed to execute the sale deed. The petitioner/plaintiff filed the suit before the Hon'ble Subordinate Court, Pollachi in O.S.No.206/2010 for the relief of Specific Performance and Injunction against the 1st respondent/defendant and his family members. The suit was decreed against the petitioner/plaintiff and the petitioner/plaintiff preferred an appeal before the Hon'ble Principal District Judge, Coimbatore in A.S.No.111/2018 and same is pending. Copy of the Memorandum of Appeal is produced as plaint Doc.No.5.

The petitioner/plaintiff contented that when the suit filed by the petitioner/plaintiff the 1st respondent/ defendant with ulterior motive executed a sale deed in favour of the 2nd respondent/defendant to an extent of 2.57 acres of land without knowledge of petitioner/plaintiff and suppressing the sale agreement with the petitioner/plaintiff. The above sale deed was executed during the pendency of the suit in O.S.No.206/2010.

The 2nd respondent/defendant with his henchmen are tried to take illegal possession of the suit property. The 2nd respondent/defendant filed a suit before Hon'ble Sub Court, Pollachi in O.S.No.452/2022 against one fictitious person named Appachi and sought for commission to inspect the suit property and the suit has been set exparte and commissioner has been appointed to inspect the suit property without revealing the pending suit between the petitioner/plaintiff and respondents/defendants. The 1st respondent/defendant came to measure

the suit property. The petitioner/plaintiff restrained them from inspect the property.

The petitioner/plaintiff filed a Writ Petition before the Hon'ble High Court, Madras in W.P.No.8866/2023 and in W.M.P.No.9028/2023 the Hon'ble High Court granted interim stay against the 2nd respondent/defendant. Copy of the Hon'ble High Court order is produced as plaint Doc.No.8. The Hon'ble High Court order in para 4 held that... 4. *The issue as to whether the survey can be conducted in the subject land where the petitioner claims to be in possession, may be adjudicated at a later point of time. However, this court is of the view that the possession of the petitioner may be disturbed if survey and demarcation of the boundaries are made. Hence, there shall be an order of interim stay.*

Now the 2nd respondent/defendant without obliging order of the Hon'ble High court tried to enter into the suit property, when the petitioner/plaintiff and his wife in the suit

property. The petitioner/plaintiff's wife preferred police complaint against the 2nd respondent/defendant on 24.05.2023 and 29.05.2023. Copy of the CSR issued by Kinathukadavu PS are produced as plaint Doc.No.10 and 11. Now the respondents/defendants tried to enter into the suit property and grab the possession of the property.

The petitioner/plaintiff is produced the plaint Doc.No.1 to 11 shows that the petitioner/plaintiff have possession over the suit property.

Therefore, this court is of opinion that the prima facie case has been made out and balance of convenience is also in favour of the petitioner/plaintiff. If the ad-interim injunction will not be granted to the petitioner/plaintiff. The petitioner/plaintiff will be suffered lot.

Hence, this court is inclined to grant an order of ad-interim injunction restraining the respondents/defendants and their men, agents from in anyway not to disturb and interfere with the petitioner/plaintiff peaceful possession enjoyment over the suit property till 23.06.2023.

The petitioner/plaintiff should be complied the Order 39 Rule 3(a) & (b) of CPC.

Issue notice to respondents/defendants by 23.06.2023

ADM., POLLACHI
PDM., CBE.(I/C)