

IN THE COURT OF SUBORDINATE JUDGE, ERANIEL.

**Present : Tmt. D. Asha Kousalya Shanthini, B.Sc., B.L.,
Subordinate Judge, Eraniel.**

Monday, the 11th day of November 2024

I.A.No.2/2024

in

O.S.No.11/2024

1. Jemila
2. Suresh

... Petitioners/Plaintiffs

.Vs.

1. Edwin Raja Sekar
2. Joseph Gnana Sekar
3. Stephen Sundara Raj
4. Mary Vinita

... Respondents/Defendants

This petition coming up for final hearing before me on 10.09.2024 in the presence of Thiru. T.J. Pushpadhas, Advocate for Petitioners and respondents having remained *exparte* and upon hearing the arguments of petitioner side and upon perusing the records and having stood over for my consideration till this day, this court delivers the following:

ORDERS

1. The Petitioners/Plaintiffs seek for an interim injunction against the respondents not to alienate or encumber the Petition schedule properties under order 39 Rule 1 & 2 of the Civil Procedure Code.

2. The petitioners have filed the main suit against their brothers and sister seeking for partition of their 2/6th share in the petition schedule properties.

3. In the counter filed by the 3rd respondent it is stated that there was an oral partition during the month of January 2009 with respect of the petition schedule properties based on which the 2nd and 4th respondents sold their shares of the petition schedule properties to the 3rd respondent on 15.09.2009 and on 12.09.2011, the 3rd respondent purchased the share of the 1st respondent and on 08.08.2016, the 3rd respondent sold a part of the property to one Anitha Mary.

4. Admittedly, the 3rd respondent relied on oral partition only, who has also submitted that she is not trying to alienate or encumber the petition schedule properties. Any way, considering the alienation done so far in respect of the petition schedule properties, to avoid further alienation or encumbrance and to avoid multiplicity of proceedings, this court is of the considered opinion that the petitioner has made out a prima facie case. In the given circumstances, if an interim injunction is granted, no prejudice will be caused to the other side, because, it is submitted that by the respondent that he is not going to alienate or encumber the property. On the other hand, if interim injunction is not granted, it may lead to prejudicing the interest of the petitioners, who are seeking for their 2/6th share in the petition schedule properties. The balance of convenience is also leaning in favour of the petitioners.

5. Considering the facts and circumstances of the present case, for the above said reasons, this Court is inclined to allow the present I.A as prayed for until further orders.

In the result, I.A. is allowed until further orders.

Sd/-
Subordinate Judge,
Eraniel.