

IN THE COURT OF SUBORDINATE JUDGE OF PALLADAM

PRESENT: Thiru.K. Yuvaraj, B.A.,B.L.,
Subordinate Judge, Palladam

Tuesday of 26th November, 2024

IA No.02/2023

in

OS.No.248/2023

N.Sundaram

... Petitioner / Plaintiff

/Vs/

1. N.Mohan

2. N.Selvaraj

3. V.Kalavathi

4. S.Chithra

... Respondents / Defendants

This petition is coming on 20.11.2024 for final hearing before me in the presence of Tr.N.Manoj kumar, Advocate for the petitioner and Tr.Vighnesh, Advocate for the 1st Respondent to 3rd Respondents and Tr.P.Venkatachalapathy, Advocate for the 4th Respondent upon hearing both side argument, and all connected material records and having stood over till this day for consideration, this court delivered the following:

ORDER

This application was filed by the Petitioner / Plaintiff for the relief of interim injunction as against the 4th respondent / 4th defendant not to construct the any building in the suit schedule prtoperty till the disposal of main suit.

2. The learned counsel for the Petitioner/ Plaintiff argued that he file the suit for Partition along with permanent injunction. It is the case of the Petitioner / plaintiff that the suit property was originally belongs to Narayanan, father of the petitioner, 1st and 2nd respondents and father in law of the 3rd respondent by virtue of Sale deed dated 28.11.1979 in Document No.1865/1979. Then after on 07.03.1984 the said Narayanan died living behind this petitioner, 1st and 2nd respondent and 3rd respondent as his legal heirs. Since the property was undivided within the family members this petitioner and the respondents where been in possession over the suit property.

3. During 2nd week of September 2023 the 4th respondent who is no way connected to the family of petitioner / Plaintiff had encoarched the suit property and tried to construct over the same. On enquiry the 4th respondent informed that 2nd respondent and 3rd respondent had executed a sale in favour of him over undivided family property. On verifying the encumbrance certificate it reveals that 2nd and 3rd respondent had conveyed a sale deed in favour of the 4th respondent in Document No.2963/2023 dated 23.02.2023. Since it is a undivided property under the possession of Petitioner/ Plaintiff along with other respondents 1 to 3 the act of 4th respondent is severe violation. Hence this petitioner for Interim Injunction.

4. Per contra, the learned counsel for the respondents countered that the $\frac{3}{4}$ share of suit property was already sold to 4th defendant and all the allegations were denied and prayed for dismissal.

Now the point for consideration is whether this petition is allowed?

1. Heard both sides. Perused entire records. On careful perusal of records admittedly this suit was filed for the relief of Partition along with permanent injunction and it is admitted case that 4th respondent had purchase the $\frac{3}{4}$ share of the property by virtue of sale deed dated 23.02.2023 in Document No.2963/2023 and it is also admitted fact that the sale was over undivided property as averted by the Petitioner / plaintiff. Since there was no division among the suit property it is unsafe to make a construction over the same and it might create multiplicity of proceedings. Hence there is a prima facie case made out, balance of convenience is also in favour of Petitioner/ Plaintiff and there will be irreparable loss if the 4th respondent had put up a construction over the suit property. Hence this application is allowed and 4th respondent / 4th defendants is hereby directed not to construct any building over the suit property till the disposal of the suit.

In the result,

With this observation this application is allowed.

Dictated to Stenographer, typed by her, corrected and pronounced by me in Open Court this 26th November 2024.

Subordinate Judge,
Palladam.