

**IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE
VIRUDHUNAGAR**

Present : Thiru. **T.V.Hemanandakumar, B.A.,L.L.M.,**
Additional District Judge, Virudhunagar

Thursday, the 20th day of March, 2025

IA No.02/2024 in
OS.No.208/2023

1. Shanthi.
2. Minor Harharish ... Petitioners/plaintiffs.
(2nd minor petitioner through his
mother and Guardian 1st petitioner)

Vs

1. Arumugam.
2. Pandiyammal
3. Selvam
4. Chellayee Pappa
5. Murugeswari. ... Respondents/Defendants

This petition came up on 13.03.2025 for final hearing before me, in the presence of Thiru.J.Marikumar, learned advocate for the petitioners/plaintiffs and Thiru.M.Subburam, learned advocate for respondents 1 to 5 and upon considering all material records in this case and having stood over till this day for consideration, this court doth deliver the following

ORDER

This petition is filed by the petitioners/Plaintiffs under Order 39 Rule 1 and 2 CPC for interim injunction restraining the respondents from alienating the petition scheduled property.

2) It is alleged in the affidavit that the petitioners are the plaintiffs in this case. The plaint schedule property originally belonged to respondents' father Karuppiah. After his death, as legal heirs, the respondents inherited the properties. On 16.07.2021, the respondents agreed to sell the property to the petitioners for a total consideration of Rs.13,44,000/- and on that day they received Rs.3,00,000/- as advance. After that on 04.10.2021 the respondents received Rs.1,00,000/- and on

15.12.2022 they received another Rs.1,00,000/- and totally they received Rs.5,00,000/-. When the petitioners requested for execution of sale deed, the respondents, stated that all of them could not come together and delayed the execution of Sale deed. Hence this petitioner sent notice to the respondents and gave a publication in the newspaper. Knowing that on 15.05.2023, the respondents executed a settlement deed in favour of one K.Pandiyammal and said Panidyammal, on 20.10.2023, executed a power of attorney to Marimuthu to sell the property. Now the petitioners came to know from one Karuppasamy, S/o Mariyappan that the respondents are trying to sell the property. Hence till the disposal of the case interim injunction has to be granted.

3) The respondents filed counter contending that all the facts alleged in the affidavit has to be proved by the petitioners. The respondents never executed any agreement for sale and did not receive any amount. The signatures in the agreement dated 16.07.2021 are not the signatures of the respondents. Before filing the suit, the respondents sold the property to third party and hence this petition is not maintainable.

4) There is no oral or documentary evidence on both sides.

5) The point for consideration is whether this petition deserves to be allowed?

6) Heard and documents perused.

7) **Point:**

The petitioners are the plaintiffs in the suit. The suit is filed by the petitioners for specific performance of agreement for sale on the allegation that on 16.07.2021 the respondents received a sum of Rs.3,00,000/- as advance and agreed to sell the property to the petitioners for a total consideration of 13,44,000/- and thereafter the respondents received Rs.2,00,000/- and totally a sum of Rs.5,00,000/- paid by the petitioners. After the agreement, the respondents did not execute sale deed and now trying to sell the property to third party.

8) The learned counsel appearing for the petitioners argued that if the respondents successfully sells the property, the petitioners will put to hardship to execute the decree. On the other hand, the respondents contended that the property was already alienated by the respondents before filing the suit and according to them, they never received any amount from the petitioners and did not execute any agreement for sale.

9) The prayer in this petition is that the respondents herein may be restrained by an order of interim injunction not to alienate the property during the pendency of this case. In the affidavit, the petitioner has stated that already the respondents executed a settlement deed in favour of one K.Pandiyammal on 15.05.2023 and said Pandiyammal executed a power of attorney in favour of one Marimuthu. So, now the property is not in the hands of respondents and they have already alienated the property. Said donee K.Pandiyammal is not a party to this proceeding. The respondents also in the counter stated that even before filing of the suit, they alienated the property to third party. So, it is clear that as on date the respondents are not the owners of the property and the property was already alienated. Hence, without the purchaser or donee as a party to this proceeding, interim injunction cannot be granted. The petitioner is not having prima facie case in this petition and the petition is liable to be dismissed.

10) In the result, this petition is dismissed. No order as to cost.

Dictated to the steno-typist, typed by her, corrected and pronounced by me in open court, on this the 20th day of March, 2025.

Additional District Judge,
Virudhunagar.

Witness and Exhibits on the side of the Petitioners:

Nil.

Witness and Exhibits on the side of the Respondents:

Nil.

Additional District Judge,
Virudhunagar.