

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL MISCELLANEOUS APPEAL No.1064 of 2014

Date:04.02.2015

Between:

M.Prashant, S/o M.Srinivas
and another.

..... Appellants

And:

G.Yadagiri, S/o Ramaiah
and three others.

.....Respondents

Counsel for the Appellants: Ms Manjiri S.Ganu

Counsel for Respondent No.1: Sri Nizampur
Chandrasekhar

The Court made the following:

JUDGMENT:

This Civil Miscellaneous Appeal arises out of order, dated 14.07.2014 in IA.No.2942 of 2012 in OS.No.890 of 2012 on the file of learned II Additional Chief Judge, City Civil Court, Hyderabad.

I have heard Ms Manjiri S.Ganu, learned counsel for the appellants and Sri Nizampur Chandrasekhar, learned counsel for respondent No.1, who alone is the contesting respondent.

Respondent No.1 filed OS.No.890 of 2012 before the lower Court for declaration of his title over 'C'

schedule property and for permanent injunction against appellants and also respondent Nos.2 to 4 restraining them from interfering with his peaceful possession and enjoyment of the suit schedule property. Along with the suit, respondent No.1 has filed I.A.No.2942 of 2012 for temporary injunction. The lower Court has allowed the said application.

Ms Manjiri S.Ganu, learned counsel for the appellants, pleaded that while respondent No.1 is the owner of 'B' schedule property, he has no right over 'C' schedule property, which is a Government property. She has further stated that 'B' schedule property has no opening into 'C' schedule property and that after obtaining the order of injunction, respondent No.1 has created a opening and has not only started using 'C' schedule property as ingress and egress, but also been preventing the appellants and other devotees of the temple, which is situated on the land adjacent to 'C' schedule property from using the said property.

Sri Nizampur Chandrasekhar, learned counsel representing Sri N.Chandra Sekhar, learned counsel for respondent No.1, submitted that his client has purchased the property under a registered sale deed dated 14.12.1972; that he is the true owner of the property; that he was keeping his cattle over 'C' schedule property; and that because of the harassment of the appellants, he was forced to tether his cattle inside his house causing great inconvenience.

A perusal of the order of the lower Court would show that it has discussed the evidence adduced by both parties and rendered a finding that respondent No.1 has *prima facie* title besides establishing his possession over the suit schedule property. Therefore, in strict sense of the matter, the order of the lower Court need not be interfered with. However, considering the plea of the

appellants that a part of the suit schedule property, which is admittedly vacant, is being used for temple purpose, I deem it appropriate that a workable arrangement is to be made pending the suit.

Accordingly, respondent No.1 is permitted to use half of 'C' schedule property, which is immediately contiguous to 'B' schedule property, for tethering cattle besides using 'C' schedule property for ingress and egress to his house situated in 'B' schedule property. The balance 50% of 'C' schedule property can be used by the appellants in connection with the activities of the temple, which is stated to be situated adjacent to 'C' schedule property, without any right to raise constructions thereon. It is made clear that this Court shall not be understood as having recognized the right of the appellants over the property which is permitted to be used for temple activities and the lower Court shall dispose of the suit without giving any weight to this arrangement.

Subject to the above observations and directions, the Civil Miscellaneous Appeal is disposed of and the order of the lower Court is, accordingly, modified to the above effect.

As a sequel to disposal of the appeal, CMAMP.No.1774 of 2014 filed by the appellants for interim relief is disposed of as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*04th February, 2015
DR*