

**FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

CASE No. C.M.A.No.459 of 2015

Myla Ram Reddy and another
Appellants

B. Naveen Kumar and others ...
Respondents

SUBMITTED FOR APPROVAL:

1. Whether reporters of local newspapers
Yes/No
may be allowed to see the judgment?
2. Whether the copies of judgment may be
marked to Law Reporters/Journals?
Yes/No
3. Whether Their Lordships wish to see the
Yes/No
fair copy of the judgment?

JUDGMENT: (Per R. Subhash Reddy, J)

This Civil Miscellaneous Appeal is filed by the plaintiffs in O.S.No.111 of 2014 aggrieved by the order dated 30.05.2015 passed in I.A.No.193 of 2014 in O.S.No.111 of 2014 by the V Additional District Judge, Bhongir.

2. The appellants herein are the plaintiffs in the aforesaid suit, which is filed with the prayer which reads as under:

- a. “Declaring that sale deed baring document No.572/2012 dt.06.02.2012 executed by defendant No.4 on behalf of defendant No.3 in favour of defendant No.1, in respect of the suit schedule property consisting of land in Sy.No.593 to the extent of 9 acres 16 guntas situated at Kondamadugu village, Bibinagar Mandal, Nalgonda District more particularly described in the schedule hereunder, as being defective, nominal, sham, devoid of consideration and not binding on the plaintiffs and cancel the sale deed;
- b. Consequently grant perpetual injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs in and over 7 Ac. 16 guntas out of the suit schedule property consisting of land admeasuring 9.16 guntas in Sy.No.593 situated at Kondamadugu village, Bibinagar Mandal, Nalgonda District, more particularly described in the schedule...”

3. During pendency of the suit, appellants filed I.A.No.193 of 2014 under Order 39 Rules 1 and 2 read with Section 151 CPC seeking temporary injunction

restraining the respondents from interfering with their possession over the petition schedule land. It is the case of the appellants that they were inducted into possession of the said land by respondents 3 and 4 pursuant to registered agreements of sale-cum-GPA bearing document Nos.1247/2013, 1298/2013, 1299/2013 and 1300/2013 dated 02.03.2013. It is their claim that before purchase of the said land from respondents 3 and 4, they made enquiries and therefore they are bona fide purchasers, but in the month of April, 2003, there was interference with their possession by respondents 1 and 2, who caused damage to an extent of Rs.30 lakhs. It is also the case of the appellants that though there are registered sale deeds in favour of respondents 1 and 2, which were executed by respondents 3 and 4, they are sham and nominal documents, as such, respondents have no right to claim possession of the petition schedule land on the basis of such documents.

4. In the affidavit filed in support of the petition, it is stated that respondent No.1 filed O.S.No.40 of 2013 on the file of the Senior Civil Judge, Bhongir and obtained interim injunction orders against appellants and respondents 3 and 4. It is stated that they have also lodged complaint to the Police, which is registered as Cr.No.63 of 2013 and the same is pending investigation. It is further

averred in the affidavit that subsequently appellants entered into Memorandum of Understanding and in spite of the fact that they have paid substantial amounts; suit filed by respondent No.1 is not withdrawn.

5. Counter-affidavit is filed by respondent No.1 opposing the relief sought by the appellants. Respondent No.2 filed memo adopting the counter-affidavit filed by respondent No.1. Respondents 3 and 4 have not filed any counter-affidavit.

6. The Court below, having considered the rival contentions of the parties, mainly on the ground that there are registered sale deeds with regard to the very same suit schedule property in favour of respondents 1 and 2, executed by respondents 3 and 4 earlier in point of time, dismissed the I.A., filed by the appellants. Hence, this appeal.

7. In this appeal, it is contended by the learned counsel for the appellants that though appellants are bona fide purchasers and are in possession of the property, there is interference by respondents 1 and 2 without any authority of law and jurisdiction. It is submitted that appellants have developed the suit schedule property into residential sites and some of the plots were already sold.

8. On the other hand, it is submitted by the learned counsel for respondents 1 and 2 that respondents 1 and 2

are the owners of the suit schedule property having purchased the same from respondents

3 and 4 vide registered sale deeds bearing document Nos.4973/2009 and 572/2012. It is submitted that as respondents 1 and 2 have become owners by virtue of their purchase from respondents 3 and 4, appellants cannot claim any right based on the agreements of sale executed in the year 2013.

9. In this case, it is not in dispute that the suit schedule property was originally owned by respondents 3 and 4. Equally, it is not in dispute that in respect of such property, there are registered sale deeds executed by respondents 3 and 4 in favour of respondents 1 and 2. Respondents 3 and 4 have filed O.S.No.109 of 2014 for declaration of title, and, further, to declare that respondents 1 and 2 do not have any right to transfer the land pursuant to documents bearing Nos.4973/2009 and 572/2012 and also for declaration that the said two registered sale deeds are sham and nominal. So long as the transactions in favour of respondents 1 and 2, conveying the land by registered sale deeds in the years 2009 and 2012 are not in dispute, and unless there is declaration by the competent Court, there is no reason to disbelieve the possession of respondents

1 and 2. Undisputedly, appellants' claim is based on the agreements of sale executed in the year 2013. When the entire land of Ac.9.16 guntas is transferred in favour of

respondents 1 and 2 by registered sale deeds, no land is left either to enter into agreement or to receive any consideration under agreements of sale-cum-GPA which were executed on 02.03.2013. Further, it is to be noticed that respondents

3 and 4 have already filed the aforesaid suit seeking declaration. Unless and until they succeed in the suit, appellants, who claim rights only through respondents 3 and 4, that too, based on agreements of sale, have no prima facie title and possession, so as to seek injunction. In that view of the matter, the Court below has rightly rejected the I.A., filed by the appellants.

10. For the foregoing reasons, we do find any valid ground to interfere with the order impugned. Civil Miscellaneous Appeal is accordingly dismissed. No order as to costs.

As a sequel, miscellaneous petitions if any pending in the appeal stand closed.

R. SUBHASH REDDY, J

A. SHANKAR NARAYANA, J

July 27, 2015
MRR