

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

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C.M.A.No.719 of 2015

JUDGMENT:

This appeal is filed against the an order of ad-interim injunction, dated 16-09-2015, passed in I.A.No.1445 of 2015 in O.S.No.1004 of 2014 by I Additional District Judge, Ranga Reddy District at L.B.Nagar.

It is stated that in I.A.No.1445 of 2015, the trial Court granted ad-interim injunction against the petitioners/defendants restraining them from interfering with the possession of respondent/plaintiff.

Learned counsel for the appellants mainly contends that the impugned order is passed in violation of proviso to Order 39 Rule-3 of C.P.C. i.e. exparte interim injunction has been granted without recording any reasons.

Learned counsel for the respondent submits that already a suit was filed by the appellants in respect of property to an extent Ac.35-32 guntas in Sy.Nos. 221, 222 and 223 of Srinagar village in O.S.No.1525 of 2014 pending on the file of I Additional District Judge, Ranga Reddy District at L.B.Nagar and in the said suit, interim injunction granted and the trial Court by taking into consideration of the same granted interim injunction in respect of other survey numbers.

A perusal of the impugned goes to show that the same is passed in violation of proviso to order 39 Rule-3 C.P.C. as it states that if urgent notice is ordered, there would be delay in service and return and that if the reason to be accepted in each and every case, exparte interim injunction should be granted. Proviso to Order 39 Rule-3 C.P.C. envisages recording of reasons for dispensing with notice.

In view of the above, impugned order is set aside and the trial Court is directed to dispose of I.A.No.1445 of 2015 in O.S.No.1004 of 2015 by I Additional District Judge, Ranga Reddy District at L.B.Nagar, within a period of two weeks

from the date of receipt of order. This order is passed only on the short ground of violation of proviso to Order 39 Rule-3 C.P.C. and the trial Court is directed to dispose of I.A. on merits without being influenced by this order. The appellants shall file counter within said period and failing which, the trial Court shall dispose of I.A. by observing the same.

Accordingly, the Appeal is allowed. As a sequel thereto, miscellaneous petitions, if any, pending in this appeal, shall stand closed.

A.RAJASHEKER REDDY,J

30-11-2015

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