

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

SECOND APPEAL No.902 of 2014

JUDGMENT:

Heard the learned Counsel for the appellants.

The appellants are the plaintiffs in O.S.No.15 of 2009 on the file of the learned Principal Junior Civil Judge at Bhongir. The suit was filed for specific performance of agreement of sale dated 31.12.2002 and 21.05.2003 in respect of the suit schedule property situated at Guduru Village of Bibinagar Mandal in Nalgonda District. The said suit was dismissed by judgment and decree dated 15.04.2013 and against the same, the plaintiffs preferred A.S.No.18 of 2013 on the file of the learned Senior Civil Judge at Bhongir. When the said appeal was dismissed by the learned Senior Civil Judge, Bhongir, on 26.09.2014, the present Second Appeal is filed.

At the outset, learned Counsel for the appellants submits that the appellants filed I.A.No.1141 of 2013 for receiving three original documents: i) Certificate dated 24.07.2013, ii) C.C of Mortgage Deed dated 10.01.1998 and iii) Certified copy of Encumbrance Certificate dated 24.07.2013; and without passing any orders on the said application, the appeal was disposed of by the learned Senior Civil Judge.

In order to verify the said fact, this Court called for the record in I.A.No.1141 of 2013 from the lower appellate Court – Senior Civil Judge at Bhongir. From the record it is clear that the application was filed on 22.11.2013 and it was adjourned

on two occasions, and ultimately on 01.07.2014 it was directed to be called along with the main appeal. Thereafter, no order was passed in the said I.A.No.1141 of 2013 and the appeal itself was dismissed on 26.09.2014.

In the circumstances, learned Counsel for the appellants submits that prejudice is caused to the appellants in not passing any order on the application filed for receiving additional documents and disposing of the main appeal itself without considering those documents.

Since this Court is satisfied with the submissions made by the learned Counsel for the appellants after perusing the record submitted to this Court, the decree and judgment passed by the learned Senior Civil Judge at Bhongir in A.S.No.18 of 2013 dated 26.09.2014 is set aside, and the matter is remanded to the Court of the Senior Civil Judge at Bhongir for considering the I.A.No.1141 of 2013 along with A.S.No.18 of 2013 and disposing of the appeal along with the said application after hearing the arguments of Counsel for both sides, within a period of three months from the date of receipt of a copy of this order.

The Second Appeal is, accordingly, allowed. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

13.03.2015

Note: Registry is directed to return the original record
received from the lower appellate Court.

B/o.

vs