

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL MISCELLANEOUS APPEAL No.476 of 2014

Date:04.02.2015

**Between:**

Shaik Nazeemuddin,

S/o Shaik Shujauddin

**..... Appellant**

**And:**

Mohd. Aslam, S/o Mohd. Yousuf Ali

and another.

**.....Respondents**

Counsel for the Appellant: Sri Daman Anil Patel  
for Sri Venkat Reddy Donthi

Counsel for Respondent No.1: Sri V.M.M.Chary  
for Sri K.Hema Prakash Rao

Counsel for Respondent No.2: None appeared

The Court made the following:

JUDGMENT:

At the interlocutory stage, the Civil Miscellaneous Appeal is taken up for hearing, at the request of learned counsel for respondent No.1.

This Civil Miscellaneous Appeal arises out of order, dated 18.02.2014, in IA.No.524 of 2013 in OS.No.177 of 2013 on the file of learned III Additional Chief Judge, City Civil Court, Hyderabad.

Respondent No.1 filed OS.No.177 of 2013 before the Court below for permanent injunction restraining the appellant and respondent No.2 from passing off their goods as those of respondent No.1's under the trade name '**BRIGHT**' or any trade mark which is phonetically, visually or deceptively similar to the trademark '**BRIGHT**' of respondent No.1; for damages for causing loss to the reputation and goodwill of the business of respondent No.1; and for delivery of all the goods and other material including stationary bearing the impugned trade mark '**BRIGHT**'. Along with the suit, respondent No.1 has filed IA.No.524 of 2013 for temporary injunction. The lower Court by order, dated 18.02.2014, allowed the said I.A. Feeling aggrieved by the said order, respondent No.1 has filed the present Civil Miscellaneous Appeal.

This Court by order, dated 27.06.2014, in CCCAMP.No.620 of 2014 suspended the injunction order passed by the lower Court. The said order was made absolute by order, dated 23.09.2014.

Sri V.M.M.Chary, learned counsel representing Sri K.Hema Prakash Rao, learned counsel for respondent No.1, submitted that one of the main reasons on which this Court has suspended the order of the lower Court was that it has rendered a wrong finding that respondent No.1 is a registered trade mark holder. He has further submitted that the said finding was deleted by the lower Court after the Civil Miscellaneous Appeal was filed by the appellant. He has, accordingly, submitted that in view of the subsequent event, the lower Court may be directed to dispose of the I.A afresh after hearing both the parties.

In the light of the above submission of learned counsel for respondent No.1, the order, dated 18.02.2014, in IA.No.524 of

2014 in OS.No.177 of 2013 is set aside. The lower Court is directed to dispose of IA.No.524 of 2013 afresh after hearing both sides.

The Civil Miscellaneous Appeal is, accordingly, allowed.

As a sequel to disposal of the appeal, CMAMP.No.1425 of 2014 filed by the appellant for interim relief is dismissed as infructuous.

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*JUSTICE C.V.NAGARJUNA REDDY*

*04<sup>th</sup> February, 2015*

*DR*