

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Civil Miscellaneous Appeal No.1014 of 2014

Dated 04th February, 2015

Between:

Sri Pottabattini Srisailam

...Appellant

And

Smt.Pottabattini Sharadamba and others

...Respondents

Counsel for the appellant: Sri R.Bala Subrahmanyam

Counsel for the respondents: Sri Goli Viplav Reddy

The Court made the following:

JUDGMENT:

This civil miscellaneous appeal is filed against the order, dated 31.07.2014, in I.A.No.160 of 2013 in O.S.No.38 of 2013, on the file of the learned V Additional District Judge at Bhongir.

The appellant has filed the above-mentioned suit for a decree declaring that sale deed bearing document No.1740 of 2012, dated 19.04.2012, executed by respondent No.1/defendant No.1 in favour of respondent No.4/defendant No.4 is null and void and not binding on him and other shareholders of the suit schedule property. In the said suit, the appellant has filed I.A.No.160 of 2013 for interim injunction restraining the respondents from alienating the suit property. The lower Court by the order, dated 31.07.2014, dismissed the said application as infructuous by taking note of the fact that under Ex.P6 sale deed, respondent No.4 has purchased the suit schedule property from respondent No.1 and the said respondent in turn has sold the same to one Smt.Pottabathini Aruna (wife of respondent No.2) and that the said sale is hit by the doctrine of *lis pendens*. The lower Court further observed that in view of the sale

transaction, the application has become infructuous.

Under Section 52 of the Transfer of Property Act, 1882 transfer of any right in immovable property, which is the subject matter of a suit, cannot be made or such property cannot be otherwise dealt with by any party to the suit or proceeding so as to affect the rights of any other party thereto under any decree or order which may be made therein except under the authority of the court. Thus, the said provision itself contains a legislative injunction on transfer of property in any manner pending the suit. In the light of this provision, no separate order need be passed by the Court granting injunction against alienation. As no right will accrue to the purchasers in pursuance of the alienations made during pendency of the suit, any such alienations shall be subject to the result of the suit. With this observation, this CMA is disposed of.

As a sequel to disposal of the CMA, C.M.A.M.P.No.1673 of 2014 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

04th February, 2015
VGB