

**HON'BLE SRI JUSTICE R. SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA**

CIVIL MISCELLANEOUS APPEAL No.952 of 2014

JUDGMENT : (Per Justice R. Subhash Reddy)

This civil miscellaneous appeal is filed by defendants 1, 2 and 5 in the suit in O.S.No.45 of 2013, aggrieved by order dated 15.09.2014, passed in I.A.No.232 of 2013, by the Family Court-cum-IV Additional District and Sessions Judge, Adilabad.

By the aforesaid order, the civil Court has allowed the petition filed by the respondent-plaintiffs under Order 39 Rule 1 CPC and granted injunction restraining the appellants and respondent No.11 herein from interfering with the possession of plaintiffs over the suit schedule property admeasuring Ac.3-00 gts., covered by Sy.No.415 of Mancherial Shivar, Adilabad District. Originally, the above said suit land belong to defendant No.3 in the suit. It is the case of respondent-plaintiffs that plaintiff No.1 purchased the said land from defendant No.3 vide unregistered sale deed, dated 11.03.1985, and he was inducted into possession, and subsequently, said sale deed was regularized by collecting stamp duty and registration fee and after completion of inquiry, pattadar passbook and title deed were issued and his name was also shown in the pahani for the year 2006-07 as pattadar. It is the case of plaintiff No.1 that after sale deed

was regularized, an extent of Ac.2-00 gts., out of the said property was sold to plaintiff Nos.2 to 8 and they are in actual and physical possession of the same. When the defendants have raised dispute with regard to title of the property, the aforesaid suit is filed seeking declaration of title and also for restraining the defendants from interfering with the possession of plaintiffs. Interlocutory application in I.A.No.232 of 2013 is filed under Order 39 Rule 1 of CPC, praying for interim injunction, in which, a detailed counters are filed by the appellants herein. In the counter affidavit filed by defendant Nos.1 and 2, while admitting that defendant No.3 is the owner of suit schedule property, they have denied the purchase of land by plaintiff No.1 and also denied the possession claimed by the other plaintiffs. On the other hand, defendant No.3 has filed a separate counter admitting the sale in favour of plaintiff No.1 and also admitting the possession of plaintiff No.1.

The civil Court, while considering the matter on merits with regard to the claim made by plaintiffs for grant of temporary injunction, has allowed the petition by order, dated 15.09.2014, granting interim injunction, as against which, this appeal is filed.

In this appeal, it is contended by the learned counsel for appellants that though there is no legally acceptable

evidence on record to show that the respondent-plaintiffs are in possession of suit schedule property, the Court below has erroneously allowed the petition and granted injunction.

In this case, it is to be noticed that undisputedly, respondent No.3/defendant No.3 was the original owner of plaint schedule property which was purchased by him through the official liquidator vide registered sale deed, dated 12.11.1971. It is the claim of plaintiff No.1 that respondent No.3 has sold the said land by way of simple sale deed dated 11.03.1985. It is also the case of plaintiff No.1 that such unregistered sale deed was regularized by collecting stamp duty and penalty and thereafter patta was implemented in favour of plaintiff No.1, and out of the suit schedule property, Ac.2-00 gts. of land was sold in favour of plaintiff Nos.2 to 8. Though the appellants have denied such sale by pleading that the sale deed was not at all regularised and that on the complaint lodged by them a criminal case was registered against the plaintiffs, the same is a matter for investigation. When the predecessor in title of the suit schedule property i.e. defendant No.3 is admitting the sale in favour of plaintiff No.1 by unregistered sale deed, there is no reason to disbelieve the same at this point of time. Though the appellants herein have claimed possession over suit schedule property, it appears, no material is placed on

record to substantiate such claim.

For the aforesaid reasons and in view of the findings recorded by the trial Court and as the order of injunction granted by the trial Court is in force from 15.09.2014, we do not find any ground to interfere with the same at this stage. Appeal is accordingly dismissed. However, as the suit is of 2013, we direct the learned Judge, Family Court-cum-IV Additional District and Sessions Judge, Adilabad, to dispose of O.S.No.45 of 2013 as expeditiously as possible, preferably within a period of six months from today. No costs.

Pending miscellaneous applications, if any, shall stand closed.

R. SUBHASH REDDY, J

**A.SHANKAR
NARAYANA, J**

22nd July 2015

ajr