

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

CMA No.696 of 2016

Date:09.9.2016

Between:

M/s Vijay Engineering Equipment India
Pvt Ltd., Hyderabad, reple by its Authorized
Agent-S.Srikanth Reddy

..... Appellant

And:

M/s Venkateshwara Granites,
Warangal, reple by its Managing
Partner-R.Venkateshwar Rao and another.

....Respondents

Counsel for the appellant: Mr. M.V.Subba Reddy

Counsel for the respondents: None appeared

The Court made the following:

JUDGMENT: *(per Hon'ble Sri Justice C.V.Nagarjuna Reddy)*

This Civil Miscellaneous Appeal arises out of order, dated 15.7.2016, in I.A.No.510 of 2016 in O.S.No.58 of 2016 on the file of the learned I Additional District Judge, Warangal.

A perusal of the order impugned in this appeal shows that due to failure of the appellant to file counter-affidavit and furnish security, the lower Court has ordered attachment under Order-XXXIX Rule-5 C.P.C. and directed the case to be called on 12.8.2016.

In our opinion, since the impugned order was passed only under Order-XXXIX Rule-5 C.P.C. and the Court below has not disposed of the said I.A. by passing a final order, the appellant is entitled to file its counter-affidavit and contest the said application on merits.

In this view of the matter, we are not inclined to entertain this Civil Miscellaneous Appeal at this stage. Instead, the appellant is permitted to appear before the lower Court and by filing a counter-affidavit, contest the said Interlocutory Application. The lower Court is directed to dispose of the aforementioned I.A., after hearing both parties, within two months from the date of receipt of a copy of this order.

Subject to the above directions, the Civil Miscellaneous Appeal is disposed of.

As a sequel to disposal of the Civil Miscellaneous Appeal,
CMAMP.No.1420 of 2016 filed by the appellant for interim
relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE G.SHYAM PRASAD

09th September 2016

DR

