

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.M.A.No.259 of 2016

%13.10.2016

#Gulnar Gulabi

...Petitioner

VERSUS

\$ Tasneem Sulthana

...Respondent

< GIST:

> HEAD NOTE:

!Counsel for Petitioner: Sri Ali Farooq

^Counsel for Respondent: Sri B.Nalin Kumar

? Cases referred

¹ 2002 Suppl. (1) ALD 682

2.2009 (5) ALT 187

³.AIR 2992 SC 2370

⁴.AIR 2010 SC 2991

⁵.AIR 2001 DELHI 79

⁶.AIR 1969 PATNA 112 (V.56 C 31)



THE HON'BLE SRI JUSTICE A.V.SESHA SAI

C.M.A.No.259 of 2016

ORDER:

Defendant in O.S.No.26 of 2004, on the file of the Court of the Senior Civil Judge, Sanga Reddy, Medak District, is the appellant in the present Civil Miscellaneous Appeal preferred under the provisions of Order 43 Rule 1 of the Code of Civil Procedure.

2. This appeal assails the order dated 16.04.2015 passed by the said Court in I.A.No.435 of 2012. The circumstances leading to the filing of the appeal are that the respondent herein instituted O.S.No.26 of 2004 against the appellant herein for specific performance of Agreement of Sale. The learned Senior Civil Judge, on 21.08.2006, rendered *ex parte* Judgment and Decree in the said suit, directing execution of Registered Sale Deed in favour of the plaintiff-respondent herein. Seeking to set aside the said *ex parte* judgment and decree dated 21.08.2006, the defendant-appellant herein filed I.A.No.435 of 2012 under the provisions of Order 9 Rule 13 of the Code of Civil Procedure. The plaintiff-respondent resisted the said application by filing a counter affidavit. The learned Senior Civil Judge, Sanga Reddy, dismissed the said I.A.No.435 of 2012 by order dated 16.04.2015.

3. The present appeal calls in question the validity and the legal sustainability of the said order passed by the learned Senior Civil Judge, Sanga Reddy.

4. Heard Sri Ali Farooq, learned counsel for the appellant and Sri B.Nalin Kumar, learned counsel for the plaintiff-respondent apart from perusing the material available before the Court.

5. It is contended by the learned counsel for the appellant that the order under challenge is erroneous, contrary to law and opposed to the spirit and object of the provisions of Order 9 Rule 13 of the Code of Civil Procedure. It is also the submission of the learned counsel that the defendant-appellant herein filed the application within time from the date of knowledge. It is further contended that the plaintiff had given wrong address though she had the knowledge of the correct address where the appellant is residing. It is also submitted that the defendant-appellant herein filed an application in the year 2004 in O.S.No.177 of 2003 filed by the husband of the plaintiff herein by showing the correct address and the Court below failed to take into consideration the said crucial aspect. It is further submitted that the Court below grossly erred in dismissing the application basing on the endorsement of the postal authorities on the alleged notice got issued by the plaintiff.

6. In support of his submissions and contentions, the learned counsel for the appellant places reliance on *MUKTAR AHMED KHAN v. MARGADARSHI CHIT FUND LIMITED BRANCH AT SANGAREDDY AND OTHERS*¹, *K.NAVEEN KUMAR v. M.SURESH BABU*², *SUSHIL KUMAR SABHARWAL v. GURPREET SINGH AND OTHERS*³, *BHAGMAL AND OTHERS v. KUNWAR LAL AND OTHERS*⁴ and *VIRENDER SINGH BAHL v. Y.K.KAPOOR*⁵.

7. On the contrary, it is vehemently contended by the learned counsel for the plaintiff-respondent herein that there is no error nor there exists any infirmity in the impugned order passed by the Court below, as such, the order under challenge is not amenable for any interference of this Court under Order 43 Rule 1 of the Code of Civil Procedure. It is the further submission

¹ 2002 Suppl. (1) ALD 682

² 2009 (5) ALT 187

³ AUR 2992 SC 2370

⁴ AIR 2010 SC 2991

⁵ AIR 2001 DELHI 79

of the learned counsel that in view of negligence on the part of the defendant-appellant herein, no indulgence can be shown in favour of the appellant. It is further contended emphatically by the learned counsel that since the appellant herein filed the application at a belated stage, the said application does not merit any consideration. It is also the submission of the learned counsel that there is absolutely no evidence on record placed by the appellant to show that the appellant got knowledge for the first time on 09.03.2012 as stated in the affidavit filed in support of the application. It is further contended that having refused to receive the suit notice, it is not open for the appellant to maintain the present application under the provisions of Order 9 Rule 13 of the Code of Civil Procedure in the absence of sufficient cause shown. It is further contended that the present application is filed under Order 9 Rule 13 of the Code of Civil Procedure without filing any application under the provisions of Section 5 of the Limitation Act. It is further contended that only after giving a number of opportunities to the appellant, the Court below rendered *ex parte* judgment and decree.

8. To bolster his submissions and contentions, learned counsel for the respondent-plaintiff places reliance on the judgments in the case of *K.NAVEEN KUMAR v. M.SURESH BABU* (supra 2) and *SATYA NARAIN DHANDHANIA AND ANOTHER v. FIRM NARSING DAS BHUDARMAL AND ANOTHER*⁶.

9. In the above background, now the point that emerges for consideration of this Court is_ “Whether the order passed by the Court below, refusing to set aside the *ex parte* decree is in accordance with law?”

10. The information available before the Court manifestly discloses that the respondent herein instituted the suit for specific performance of

⁶ AIR 1969 PATNA 112 (V.56 C 31)

Agreement of Sale said to have been executed by the defendant-appellant herein on 08.10.2002. The suit schedule property consists of two items viz., Acs.3-07 guntas in Sy.No.314/E and Acs.2-37 guntas in Sy.No.315 situated at Indersham Village, Patencheru Mandal, Medak District. The learned Senior Civil Judge on 21.08.2006 rendered an *ex parte* judgment which reads as under:

“Affidavit of PW1 filed. Exhibits A1 to A7 marked. Defendant remained *ex parte*. Pw1 proved the suit claim. Hence, the suit is decreed with costs directing the defendant to execute the registered sale deed in favour of the plaintiff as per the agreement of sale dated 06.10.2002, by receiving the balance sale consideration of Rs.3,60,000/- in the event of defendant's failure to execute the registered sale deed, the plaintiff is entitled to get the same registered through court by depositing the balance sale consideration in the court.”

11. Praying to set aside the said judgment and decree, the defendant/appellant filed the present application, I.A.No.435 of 2012 under Order 9 Rule 13 of the Code of Civil Procedure. In the affidavit filed in support of the said application it is stated, *inter alia*, by the appellant that she is the absolute owner and possessor of the suit land right from the date of purchase i.e., 13.04.1995; that the respondent/plaintiff has wrongly shown her address in the Agreement of Sale as well as in the present suit i.e., Flat No.101, D.V.Apartment, Salarjung Colony, Hyderabad; that she is permanently residing at H.No.8-2-674/1/C, Road No.13, Banjara Hills, Hyderabad, which is her parents house; that previously she was residing in her ex-husband Syed Ali Abidi Zaidi's house till 2001 and she left the house in the month of January 2002 in view of disputes with her ex-husband and she obtained divorce on 14.10.2002; that she never met the respondent/plaintiff at any point of time nor seen her face so far. It is further stated in the

supporting affidavit that there are cases pending between the plaintiff husband and the defendant in the present suit i.e., O.S.No.17/2005 and O.S.No.21/2007 and the plaintiff has knowledge of the correct address in the suits and did not chose to send the summons on Banjara Hills address. It is further stated in the supporting affidavit that she applied for NIL encumbrance certificate in the Registrar Office, Sangareddy in respect of suit schedule properties on 09.03.2012 and then she came to know that the plaintiff obtained *ex parte* decree in respect of the suit lands behind her back and she had no knowledge about the pendency of the case till 2012.

12. Stating in the manner indicated *supra*, the defendant-appellant herein filed this present application.

13. The plaintiff-respondent filed a counter affidavit, denying the averments made in the affidavit filed in support of the application filed under Order 9 Rule 13 and further stating that she deposited the balance sale consideration of Rs.3,60,000/- on the direction of the Court below and after such deposit the Court below executed sale deed vide Doc.No.9053/2008 in her favour and she is in possession of the suit schedule property since the agreement of sale.

14. As evident from the impugned order, an objection as to the maintainability of the application was taken as the appellant herein did not file any application under the provisions of Section 5 of the Limitation Act. It is further evident from the impugned order that the summons were issued to the defendant/appellant, but the same were returned un-served. It is further evident from the impugned order that as per the Nazarath and the postal authorities endorsement, the reason for non-service of summons is non-availability of the appellant when the summons were about to be served. There is absolutely no dispute with regard to the fact that the plaintiff-

respondent herein took out substitute service by way of paper publication under the provisions of Order 5 Rule 20 subsequent to the orders of the Court below dated 25.10.2005. There is absolutely no dispute with regard to the reality that the husband of the respondent plaintiff instituted O.S.No.177 of 2003 on the file of the Court below for specific performance of contract of sale. It is significant to note in this context that in the said O.S.No.177 of 2003 the appellant herein filed I.A.No.1071 of 2004 seeking her impleadment and the said application was allowed by the Court below by way of an order dated 01.11.2004. In this connection, it is submitted by the learned counsel for the appellant that the learned counsel appearing for the husband of the petitioner in O.S.No.177 of 2003 and in O.S.26 of 2004 is one and the same. The filing of O.S.No.177 of 2003 by the husband of the respondent plaintiff is not in controversy. It is also to be noted that in the said I.A.No.1071 of 2004 the appellant herein had shown her address as H.No.8-2-674/1/C, Road No.13, Banjara Hills, Hyderabad. It is the submission of the learned counsel for the appellant that despite the correct address given, no steps were taken by the plaintiff in the present suit to serve the appellant herein on correct address. This Court finds sufficient force in the said submission of the learned counsel for the appellant.

15. Yet another submission made by the learned counsel for the appellant is that the endorsement made on the legal notice got issued by the plaintiff prior to institution of suit does not have any bearing on the present application. This Court finds sufficient force in the said submission. In this connection, it may be appropriate to refer to the judgment cited by the learned counsel for the appellant.

16. In *MUKTAR AHMED KHAN (supra 1)*, this Court at paragraphs 3 and 6, held as under:

“3. The contention of the learned counsel for the revision petitioner is that revision petitioner came to know of the filing of the suit and the decree against him only after the Bailiff came with a warrant of attachment and so revision petitioner need not file a petition under Section 5 of the Limitation Act because limitation starts only from the date of knowledge, as per Article 123 of the Limitation Act and as per that Article substituted service under Rule 20 of Order V C.P.C. shall not be deemed to be due service.

6. Rule 19A of Order V C.P.C. reads as follows:

"R.19A.Simultaneous issue of summons for service by post in addition to personal service.- (1) The court shall, in addition to, and simultaneously with, the issue of summons for service in the manner provided in rules 9 to 19 (both inclusive), also direct the summons to be served by registered post, acknowledgement due, addressed to the defendant, or his agent empowered to accept the service, at the place where the defendant, or his agent, actually and voluntarily resides or carries on business or personally works for gain.

Provided that nothing in this sub-rule require the Court to issue a summons for service by registered post, where, in the circumstances of the case, the Court considers it unnecessary.

(2) When an acknowledgement purporting to be signed by the defendant or his agent is received by the Court or the postal article containing the summons is received back by the Court with an endorsement purporting to have been made by a postal employee to the effect that the defendant or his agent had refused to take delivery of the postal article containing the summons, when tendered to him, the Court issuing the summons shall declare that the summons had been duly served on the defendant:

Provided that where the summons was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to in this sub-rule be made notwithstanding the fact that the acknowledgement having been lost or mislaid, or for any other reason, has not been received by the Court within thirty days from the date of the issue of summons."

As stated above the Court below did not take recourse to the above Rule, and did not in fact declare that the revision petitioner was duly served. Moreover, a close and careful reading of the proviso to sub-Rule (2) of Rule 19A of Order V C.P.C. shows that that sub-rule contemplates two types of situations i.e., (i) acknowledgement being lost or mislaid and (ii) acknowledgement not being received for any other reason. The first part i.e., acknowledgement being lost or mislaid can be either in the Court or in the Post Office. If it is lost or mislaid in the Court, there is likelihood of some type of record being available to show whether the envelope was received or refused or returned for some other reasons. In my considered opinion the declaration of due service contemplated by proviso to sub-Rule (2) of Rule 19A of Order V C.P.C. is intended only for the purpose of enabling the Court taking

further steps in the Court. It is always open to the defendant to establish that there was no due service, as such 'declaration', contemplated by the Sub-Rule is not a conclusive proof of service of notice on the defendant. So defendant can always establish non-service and seek appropriate relief. Therefore sub-rule (2) of Rule 19A of Order V C.P.C. does not shut the door against him from contending that he has no knowledge of the suit as he was not actually served with the summons in the suit."

17. In *K.NAVEEN KUMAR (supra 2)*, this Court at paragraph 20, held as under:

"20. As noticed above, there was absolutely no rebuttal evidence before the trial Court contradicting the defendant's plea that he had knowledge of the ex parte decree only on 12.11.2004. However the trial Court while going into the merits of the case and making certain irrelevant remarks against the conduct of the defendant concluded that as the defendant failed to make enquiries with his relatives and family members, it must be deemed that he had notice about the pendency of the suit and therefore limitation started running from the date of decree itself. The date of knowledge is a question of fact and has to be ascertained on appreciation of the evidence produced by the parties. However the trial Court had strangely recorded a finding on mere surmises and conjectures and had drawn an adverse inference against the defendant on the ground of his failure to make enquiries with his family members. On the face of it, the said procedure followed by the trial Court was contrary to law and the finding recorded was erroneous."

18.. in *SUSHIL KUMAR SABHARWAL (supra 3)*, the Hon'ble Supreme Court, at paragraphs 8 to 10 and 13, held as follows:

"8. We find several infirmities and lapses on the part of the process server. Firstly, on the alleged refusal by the defendant either he did not affix a copy of the summons and the plaint on the wall of the shop or if he claims to have done so, then the endorsement made by him on the back of the summons does not support him, rather contradicts him. Secondly, the tendering of the summons, its refusal and affixation of the summons and copy of the plaint on the wall should have been witnessed by persons who identified the defendant and his shop and witnessed such procedure. The endorsement shows that there were no witnesses available on the spot. The correctness of such endorsement is difficult to believe even prima facie. The tenant runs a shoe shop in the suit premises. Apparently, the shop will be situated in a locality where there are other shops and houses. One can understand refusal by unwilling persons requested by the process server to witness the proceedings and be a party to the procedure of the service of summons but to say that there were no witnesses available on the spot is a statement which can be accepted only with a pinch of salt. Incidentally , we may state that though the date of appearance was 23rd February, 1993 the summons is said to have been tendered on 22nd February, 1993, i.e., just a day before the date of hearing.

9. The appellant has himself appeared in the witness box and deposed on oath that no summons was tendered to him by any

process server of the court. It is a case of oath against oath. In view of the facts which we have noticed here-in-above clearly the oath of the appellant was more weighty than the oath of the process server. In the ordinary course of events, the court of facts should have discarded the statement of the process server and believed the statement of the appellant.

10. The learned counsel for the landlord-respondent submitted that there is an interpleader suit filed by the appellant because there was a dispute between the heirs of the original landlord who unfortunately died and his widow and the grandsons (who are the respondents herein), each of the two was claiming itself to be the landlord and entitled to recover rent each setting up a will in its favour. The appellant has admitted in the plaint therein that he was aware of the pendency of the suit filed by the respondent in the court of the Rent Controller, Amritsar. In fact, this admission of the appellant has weighed heavily with the High Court which has opined that even if the summons was not duly served, the appellant was aware of the pendency of the suit and, therefore, the application under Order 9, Rule 13 C.P.C. did not have any merit.

13. Be that as it may, we are satisfied that the summons was not served on the defendant-appellant. He did not have an opportunity of appearing in the Trial Court and contesting the suit on merits. The Trial Court and the High Court have committed a serious error of law resulting in failure of justice by refusing to set aside the ex-parte decree."

19. In *BHAGMAL AND OTHERS (supra 4)*, the Hon'ble Supreme Court, at paragraphs 7 and 8 held as under:

"7. In our opinion, the High Court was not justified in taking a hypertechnical view. We have seen all the orders. It is quite clear from the Trial Court's order that the Trial Court entertained the application on merits. The Trial Court undoubtedly has referred to the reply of the respondents to the effect that the application for setting aside the ex-parte decree was beyond the limitation. However, the view taken by the Trial Court was based more on the merits. In fact, it went on to record the finding that there was no compromise and the theory of compromise and delay on account of that was not acceptable. The Trial Court has more or the less based its findings regarding delay on the basis of the order sheets. That was not right as the order sheets nowhere bore the signatures of the parties. They were mechanically written mentioning "parties as before". Therefore, the Trial Court did not throw the application under Order IX Rule 13 merely on the basis of the fact that no application for condonation of delay was made. It went on to consider the delay aspect as well as the merits and even allowed the parties to lead evidence. It is to be seen here that the question of delay was completely interlinked with the merits of the matter. The appellants/defendants had clearly pleaded that they did not earlier come to the Court on account of the fact that they did not know about the order passed by the Court proceeding ex-parte and also the ex-parte decree which was passed. It was further clearly pleaded that they came to know about the decree when they were served with the execution notice. This was nothing, but a justification made by the appellants/defendants for making the Order IX Rule 13 application

at the time when it was actually made. This was also a valid explanation of the delay. The question of filing Order IX Rule 13 application was, in our opinion, rightly considered by the appellate Court on merits and the appellate Court was absolutely right in coming to the conclusion that appellants/defendants were fully justified in filing the application under Order IX Rule 13 CPC at the time when they actually filed it and the delay in filing the application was also fully explained on account of the fact that they never knew about the decree and the orders starting the ex-parte proceedings against them. If this was so, the Court had actually considered the reasons for the delay also. Under such circumstances, the High Court should not have taken the hyper-technical view that no separate application was filed under Section 5. The application under Order IX Rule 13 CPC itself had all the ingredients of the application for condonation of delay in making that application. Procedure is after all handmaid of justice. Here was a party which bona fide believed the assurance given in the compromise panchnama that the respondent No. 1/plaintiff would get his suit withdrawn or dismissed. The said compromise panchnama was made before the elders of the village. Writing was also effected, displaying that compromise. The witnesses were also examined. Under such circumstances, the non-attendance of the appellants/defendants, which was proved in the further proceedings, was quite justifiable. The appellants/defendants, when ultimately came to know about the decree, had moved the application within 30 days. In our opinion, that was sufficient.

8. Shri Acharya, learned Counsel appearing on behalf of the respondents tried to argue on the basis of Article 123 of the Limitation Act. However, in our opinion, Article 123 cannot be, in the facts of this case persuade us to take the view that the limitation actually started from the date of knowledge, as the appellants/defendants had no notice of the decree or the proceedings which the respondents had promised to terminate. Shri Acharya then tried to persuade us by suggesting that unless the application was filed for condonation of delay, the court had no jurisdiction to entertain the application for setting aside the decree. He has based this contention on the basis of a reported decision of this Court in *Sneh Gupta v. Devi Sarup and Ors.* : 2009 (6) SCC 194 and more particularly, the observations made in para 70 therein. In our opinion, the facts of this case were entirely different, as it was held in that case that the appellant had knowledge of passing of the compromise decree and yet she had not filed the application for condonation of delay. That is not the situation here. Even in this case, there is a clear cut observation in para 57, as follows:

“However, in a case where the summons have not been served, the second part shall apply.”

The Court was considering Article 123 of the Limitation Act. In our opinion, in this case, the limitation must be deemed to have started from the date when the appellants/defendants came to know about the decree on 22.6.1988. An application under Order IX Rule 13 was filed within 30 days from that date and, therefore, it is clear that it was within time. At any rate, even if it held that the limitation started from the date of decree, there was a satisfactory explanation of the delay if any.”

20. In *VIRENDER SINGH BAHL (supra 5)*, the Hon'ble Apex Court, at paragraphs 4 to 6, held as under:

"4. Order V of CPC deals with service of summons. As per Order V Rule 12, wherever it is practicable, service has to be made on the defendant in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient. The same can be applied when Court notice is served on both the parties including the plaintiff. As per aforesaid provision, normally service has to be effected on the party in person. In terms of Order V, Rule 16 CPC on tendering such summons, the process server is required to obtain the signature of the defendant or his agent etc. (or the plaintiff as the case may be) to whom the summons are so delivered or tendered. It is only when the person to whom the summons are tendered, refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the defendant (or the plaintiff as the case may be), the serving officer shall affix the copy of the summons on the outer door or some other conspicuous part of the house in which the defendant ordinarily resides or carries on business or personally works for gain, and shall then return the original to the court from which it was issued, with a report endorsed thereon and annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed. There is nothing on record to show that the plaintiff was tendered the summons personally or that he refused to accept the same. The service by affixation could be done only if the plaintiff had refused to give the acknowledgment when tendered with the summons.

5. Rather it has been categorically stated by the petitioner in application under order 9 rule 4 CPC that petitioner had not been served with the summons, and Therefore, he was not aware of the date of hearing i.e. 8.11.1994 and for want of service he could not appear on the said date. When the plaintiff has not been served with the summons in accordance with law and the alleged service is no service in the eyes of law, the obvious conclusion is that plaintiff was not at all served with the summons. In the absence of service, the Trial Court could not have dismissed the suit in default. Therefore, there was sufficient cause of non-appearance by the plaintiff on 8.11.1994 and the proper course which the learned Trial Court should have adopted was to issue fresh summons. It may be stated at the cost of repetition that even the defendant was not present on 8.11.1994. Learned Trial Court, in the impugned order, has not dealt with this aspect at all i.e. whether there was any service and/or service as per law effected upon the plaintiff or not. In fact, as mentioned above, the application of the plaintiff is dismissed merely on the ground that it is barred by time. However dismissing the application on this ground by the Trial Court was not proper when it was a case of "no service" and non-appearance of the plaintiff on 8.11.1994 because of this reason. It is now well settled that any order passed against a party, which has not been served with the notice, is nullity in the eyes of law. Supreme Court observed so in the case of *Grindlays Bank Ltd. Vs. C.G.I.T. & Ors.*, reported in 1981 L.I.C. 155 in the following words.

"We are inclined to the view that where a party is prevented from appearing at the hearing due to a sufficient cause, and is faced with an ex parte award, it

is as if the party is visited with an award without a notice of the proceedings. It is needless to stress that where the Tribunal proceeds to make an award without notice to a party, the award is nothing but a nullity. In such circumstances, the Tribunal has not only the power but also the duty to set aside the *ex parte* award and to direct the matter to be heard afresh."

6. Thus when the petitioner was not served with the summons and/or there was no proper service in accordance with law and order dated 8.11.1994 was nullity, the question of application for condensation of delay being time barred, does not arise. Even otherwise, it was the case of the petitioner before the Trial Court that on 8.3.1995 only he came to know that the suit was dismissed for plaintiff's non-appearance on 8.11.1994 and he moved the application under Order 9 Rule 4 CPC on 23.3.1995 i.e. within 15 days of coming to know about the dismissal of suit. Therefore application could not have been dismissed as time barred even on this ground.

21. In the considered opinion of this Court, the principles laid down in the above referred judgments are squarely applicable to the case on hand.

22. Another significant factor which needs mention at this juncture is that the suit property is a valuable property and substantial rights of the parties are involved. As referred to *supra*, the learned Senior Civil Judge rendered the *ex parte* judgment in a cryptic manner and without even discussing about the evidence on record. It is submitted by the learned counsel for the appellant that the appellant is in possession of the property and the same is disputed by the learned counsel for the respondent plaintiff.

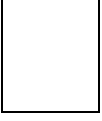
23. In view of the above reasons, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the impugned order cannot be sustained in the eye of law and the appellant herein is certainly entitled for the opportunity of prosecuting the case on merits. In view of involvement of substantial rights and in view of the reasons mentioned *supra*, the judgments cited by the learned counsel for the respondents, in the facts and circumstances, would not render any assistance to the respondent.

24. For the aforesaid reasons and having regard to the principles and parameters laid down in the above referred judgments, the appeal is allowed, setting aside the order passed by the learned Senior Civil Judge, Sanga Reddy in I.A.No.435 of 2012 in O.S.No.26 of 2004 and consequently I.A.No.435 of 2012 is allowed and the Court below shall proceed with the adjudication of O.S.26 of 2004, in accordance with law, and dispose of the same as expeditiously as possible, preferably within a period of one year. Pending adjudication there shall be status quo with regard to possession of the subject property. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No costs.

Date:13.10.2016
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A.V.SESHA SAI, J



THE HON'BLE SRI JUSTICE A.V.SESHA SAI



C.M.A.No.259 of 2016

Dated 13th October, 2016

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