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

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

CIVIL MISCELLANEOUS APPEAL No. 165 of 2016

Date: 21.09.2016

Between:

Rachapudi Suneetha,
Hyderabad.

.. Appellant

and

Iytha Kondal Rao,
Nellore, and others.

.. Respondents

Counsel for the appellant: Sri M.P. Chandramouli

Counsel for respondents:

The Court made the following:

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

This Civil Miscellaneous Appeal is filed against conditional injunction order dated 16.12.2015 passed by the learned V Additional District Judge, Nellore, in I.A.No.349 of 2015 in O.S.No.241 of 2015.

We have heard Mr. M.P. Chandramouli, learned counsel for the appellant, and perused the record.

The appellant filed O.S.No.241 of 2015 against the respondents for specific performance of agreement of sale. She has filed I.A.No.349 of 2015 for injunction restraining the respondents from alienating the suit schedule property. The lower Court, while granting injunction as prayed for, imposed the condition that the appellant shall deposit the balance sale consideration of Rs.32,50,000/- on or before 21.12.2015. Feeling aggrieved by this condition, the appellant filed this appeal.

In our opinion, in a suit filed for specific performance of agreement of sale, the plaintiff shall show his readiness and willingness to perform his part of contract. Therefore, the lower Court while granting injunction has imposed the condition of deposit of balance sale consideration, obviously, in order to test the *bona fides* of the appellant regarding her readiness and willingness.

A perusal of the order of the lower Court shows that the learned counsel appearing for the appellant/plaintiff before it requested to grant some time to deposit the said amount. Having accepted the said condition, the appellant has again filed this appeal.

In our opinion, the exercise of discretion by the lower Court cannot be said to be either arbitrary or unsound. Hence, we do not find any reason to interfere with the order of the lower Court.

The Civil Miscellaneous Appeal is accordingly dismissed.

As a sequel, C.M.A.M.P.No.373 of 2016, filed by the appellant for interim relief stands disposed of as infructuous.

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(C.V.NAGARJUNA REDDY, J)

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(G. SHYAM PRASAD, J)

Date: 21.09.2016
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