

THE HON'BLE SRI JUSTICE S.RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.738 of 2015

JUDGMENT:

This appeal is preferred questioning order dated 24.06.2015 in I.A.No.356 of 2012 in O.S.No.142 of 2012 on the file of Senior Civil Judge, Chodavaram, Visakhapatnam District. The appellant herein is defendant No.4 in O.S.No.142 of 2012, which is filed for partition and separate possession of respective shares. In that suit, plaintiff filed I.A.No.333 of 2012 seeking interim injunction restraining the defendants from alienating the suit schedule property pending disposal of the suit. Trial Court initially granted *ex parte* injunction on 07.08.2012 and subsequently on appearance of defendant No.4 and on contest, made the interim *ex parte* injunction absolute and restrained defendant No.4 from alienating the suit schedule property. Now aggrieved by the said order, present appeal is preferred.

2. Heard arguments.

3. From the submissions of both sides, it is clear that the main suit was filed about four years back and both parties are ready to proceed with the trial of the suit in view of the dispute involved in the suit. It is contended by Advocate for plaintiff that defendant No.4 has not filed her written statement till now and the same is disputed by appellant counsel. One of the contentions of the appellant is that plaintiff cannot represent on the basis of General Power of Attorney, therefore main suit itself is not maintainable. Appellant also contends that plaintiffs are not the legal heir of late Vegi Narasimham. However, the Court below has not accepted the objections of defendant No.4.

4. Considering the above submissions and without going into the merits of the case, I feel that this appeal can be disposed of directing

5. With the above directions, the Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this appeal shall stand closed.

FEBRUARY 22, 2016
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Date:22.02.2016

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