

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS

CIVIL MISCELLANEOUS APPEAL Nos.800 and 801 of 2016

COMMON JUDGMENT: (Per Hon'ble Sri Justice Sanjay Kumar)

These civil miscellaneous appeals under Order 43 Rule 1 C.P.C. arise out of the orders dated 09.09.2016 passed by the learned XV Additional District Judge, Ranga Reddy District, at Kukatpally, in I.A.Nos.566 and 567 of 2016 in O.S.No.984 of 2016. The first respondent herein is the petitioner/plaintiff and the appellants are respondents 22 to 28/defendants 22 to 28 in the said I.As. and the suit. The first respondent/plaintiff filed I.A.No.566 of 2016 seeking an ad-interim injunction restraining the respondents from alienating the petition schedule 'A' and 'B' properties and I.A.No.567 of 2016 for an ad-interim injunction restraining the respondents from changing the nature of the said properties. By the orders under appeal passed therein, the trial Court directed *status quo* obtaining as on that day to be maintained. Thereafter, the said orders of *status quo* were extended on 22.09.2016 till 21.10.2016. We are informed that on 21.10.2016, the trial Court again extended the interim orders of *status quo* till 07.11.2016, despite the appellants/respondents 22 to 28 having filed a counter opposing the interlocutory applications.

Heard Sri M.V.S. Suresh Kumar, learned Senior Counsel representing Sri Aravala Sreenivas Rao, learned counsel for the appellants/respondents 22 to 28, and Sri A. Ramakrishna Reddy, learned counsel for the first respondent/plaintiff.

Perusal of the orders under appeal and the extension orders dated 22.09.2016 reflects that the trial Court did not even record reasons as to

why it deemed fit and proper to order *status quo* obtaining as on that day to be maintained. This is in clear violation of the requirements of Order 39 Rule 3 C.P.C. That apart, the trial Court seems to have been equally unmindful of the requirements of Order 39 Rule 3-A C.P.C. in terms of the timeframe within which it should dispose of the interlocutory applications. No reasons were recorded by the trial Court as to why it could not comply with this requirement.

In the light of the law laid down by the Supreme Court in *A. Venkatasubbiah Naidu v. S. Chellappan*¹, an appeal would lie to this Court in case of inaction on the part of the trial Court in complying with the statutory mandate.

However, as the matter is yet to be adjudicated by the trial Court, it would be wholly premature for this Court to enter into the merits of the case. It is only because of the inaction on the part of the trial Court, as referred to supra, that interference is warranted in these appeals.

Sri M.V.S. Suresh Kumar, learned Senior Counsel, would state that owing to the orders of *status quo*, the appellants/respondents 22 to 28 are prevented from continuing with the construction and finishing activity in relation to the villas which have been built in the suit property. Learned Senior Counsel would further point out that the first respondent/plaintiff is only seeking partition and delivery of possession in relation to his alleged 1/30th share in the suit schedule property and therefore, preventing the appellants/respondents 22 to 28 from completing the construction of the villas is wholly unjust.

In that view of the matter, we deem it appropriate to direct that the orders of *status quo* granted by the trial Court should be read down to

¹ (2000) 7 SCC 695

mean that there shall be an order of *status quo* only as regards creation of third party interests in the suit schedule property, by way of alienation, mortgage, transfer or any other encumbrance, pending further hearing of the I.As. The trial Court shall take note of the statutory mandate under Order 39 Rules 3 and 3-A C.P.C. and act accordingly. The trial Court shall deal with the I.As. on their own merits and in accordance with law, uninfluenced by any observations made in this order.

The civil miscellaneous appeals are allowed to the extent indicated above.

Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

31st October, 2016
IBL



SANJAY KUMAR, J

ANIS, J