

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1011 of 2015

&

C.M.A No.100 of 2016

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Date:08.08.2016

Between:

Bejugama Jayalaxmi

... Appellant.

AND

Bejugama Sakkubai and another.

...Respondents.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

C.M.A No.1011 of 2015

&

C.M.A No.100 of 2016

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COMMON JUDGMENT:

These two appeals are filed against common order dated 30-10-2015 in I.A Nos.786/2014 & 500/2015 in O.S.No.175/2014 on the file of Senior Civil Judge, Siddipet.

2. The appellant in both the appeals is plaintiff, who filed O.S.No.175/2014 seeking partition of plaintiff A, B & C schedule properties. Defendants resisted the claim of the plaintiff in respect of 'B' schedule property. In the suit, plaintiff filed I.A.No.786/2014 seeking injunction restraining defendants from alienating plaintiff schedule properties and D2 filed I.A.No.500/2015 seeking temporary injunction restraining the plaintiff from interfering with possession and enjoyment of 'B' schedule property.

3. These two applications were enquired and on the basis of documents marked on behalf of both parties, trial Court dismissed the application of plaintiff and allowed the application of D2. Aggrieved by which, these two appeals are separately filed against orders passed against the plaintiff.

4. Heard both sides.

5. There is no dispute with regard to relationship between the parties. There is also no dispute with regard to identity of the properties involved in the suit. It is also not in dispute that out of three items, dispute is only in respect of 'B' schedule property and there is no quarrel with regard to 'A' & 'C' schedule properties. According to plaintiff, this 'B' schedule property was purchased with the joint funds realized on the business conducted during the life time of D2, plaintiff's husband and their father. On the other hand, it is the contention of D2 that the property was purchased with the own income of her husband in the year 1964 under a registered sale deed. These aspects have to be decided only on the basis of evidence and it cannot be decided at interlocutory stage. The Court below, on a consideration of material evidence, held that *prima facie* case is in favour of D2, therefore granted interim relief in favour of D2 and refused to grant interim relief in favour of plaintiff. As the dispute involved in the suit is only in respect of 'B' schedule property with regard to nature of property whether it is ancestral or self acquired, instead of going into these aspects at interlocutory stage, I feel by directing both parties to proceed with the trial of the suit and asking the Court below to dispose of the suit at an early date, these appeals can be disposed of.

6. For these reasons, without going to the correctness of the common order passed by the Court below dated 30-10-2015, both the appeals are disposed of directing the trial Court to take up the trial and dispose of it as expeditiously as possible, preferably within a period of six months from the date of receipt of this order.

Till disposal of the suit, interim order passed by trial Court shall be in

force. No costs.

7. As a sequel, miscellanies petitions, if any, pending in this appeal shall stand dismissed. No costs.

JUSTICE S. RAVI KUMAR

Date:08.08.2016

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