

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA
RAO
AND
THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO
CIVIL MISCELLANEOUS APPEAL No. 497 OF 2015**

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**JUDGMENT: (*per Hon'ble Sri Justice Nooty
Ramamohana Rao*)**

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This Civil Miscellaneous Appeal is preferred by the 2nd respondent in I.A.No.187 of 2013 in O.S.No.2 of 2006 on the file of the Additional District Judge at Hindupur, Anantapur District. The appellant is the 3rd defendant to the suit. The suit is filed by the 1st respondent herein seeking partition of the suit schedule property and for allotment of an appropriate share therein to him. The plaintiff moved I.A.No.187 of 2013 seeking a temporary injunction to restrain the respondents/defendants 2 to 4 from alienating the petition schedule property till the disposal of the suit. The petition schedule property is attempted to be sold away by the present appellant. At that stage, the interlocutory application is moved.

2. Heard Sri A. Chandraiah Naidu, learned counsel for the appellant, for considerable length of time and Sri Resu Mahender Reddy, learned counsel for the 1st

respondent/plaintiff.

3. The necessity to go into in detail the contentions and the answers is obviated, because the suit is of the year 2006. We are informed by Sri Resu Mahender Reddy that the plaintiff's evidence is already completed and the suit is posted for the defendants' evidence. Instead of trying to cooperate with the Court below and complete their evidence, the defendants have chosen to file this civil miscellaneous appeal and keep the matter pending there.

Interim injunction was granted on 12.06.2015. If the appellant before us has cooperated with the Court below by completing his evidence, perhaps the suit itself would have been decided by now. We, therefore, consider that the balance of convenience would lie in issuing the following direction to the learned Additional District Judge at Hindupur, Anantapur District:

“The suit in O.S.No.2 of 2006 shall be taken up without granting any unnecessary adjournments and every effort must be made to dispose of the suit before the end of June, 2016 on merits.”

It is needless for us to observe that while deciding the suit,

no observations contained in the interim injunction order passed in I.A.No.187 of 2013 would influence the Court below and the suit would be decided entirely on its own merits, after proper consideration and appreciation of the evidence brought on record.

Accordingly, the Civil Miscellaneous Appeal is disposed of.

No costs.

Consequently, miscellaneous applications, if any, shall stand dismissed.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

7th April, 2016

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