

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

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

C.M.A.No. 478 OF 2016

DATED 27TH SEPTEMBER, 2016

Between:

Muppalla Hanumantha Rao ... Appellant

AND

Vaka Somaiah and others ... Respondents

Counsel for the appellant : Sri B.Chinnappa Reddy

Counsel for respondent Nos. 1 & 2 : जयमेव : जयते --

Counsel for respondent No. 3 : Sri K.Jaya Kumar

THE COURT MADE THE FOLLOWING

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

This civil miscellaneous appeal arises out of order dated 03-02-2016 in I.A.No. 881 of 2014 in O.S.No. 41 of 2014 on the file of the Court of XIII Additional District Judge, Narasaraopet (for short, 'the lower Court').

2. The appellant entered into an agreement of sale with respondent Nos. 1 and 2 for purchase of the suit schedule property. It is his pleaded case that during the subsistence of the agreement of sale, respondent Nos. 1 and 2 have illegally sold the property to respondent No. 3. He has filed the aforementioned suit for specific performance of agreement of sale. In the said suit, the appellant has filed I.A.No. 881 of 2014 for injunction restraining the respondents from alienating the suit schedule property. Respondent Nos. 1 and 2 alone contested the case while respondent No. 3 has remained *ex parte*. The lower Court, while observing that there is no dispute as to the execution of the agreement of sale in favour of the appellant by respondent Nos. 1 and 2 and that, as the very suit is filed for specific performance of contract of sale, if the respondents are allowed to alienate the suit schedule property, the very purpose of the suit will be defeated, allowed the I.A. and restrained respondent Nos. 1 and 2 only from alienating the suit schedule property. It appears as respondent No. 3 remained *ex parte*, the lower Court has failed to include him in the order of injunction. Feeling aggrieved by non-granting of injunction against respondent No. 3, the purchaser from respondent Nos. 1 and 2, the appellant, has filed this appeal.

3. The fact that respondent No. 3 failed to contest the I.A. is not in dispute. Being the purchaser from respondent Nos. 1 and 2, the findings rendered by the lower Court in I.A.No. 881 of 2014 bind respondent No. 3 also. Respondent No. 3 has not filed any appeal against the order in I.A.No. 881 of 2014. Sri K.Jaya Kumar, learned counsel for respondent No. 3, submitted that his client has

purchased the property for his personal enjoyment and that he has no intention of selling the same pending the suit.

4. In the aforementioned facts and circumstances of the case, respondent No. 3 shall also be subjected to the order of injunction as in case of respondent Nos. 1 and 2. Accordingly, the civil miscellaneous appeal is allowed.

5. As a sequel to disposal of the civil miscellaneous appeal, C.M.A.M.P.No. 927 of 2016 shall stand closed as infructuous.

C.V.NAGARJUNA REDDY, J.

G.SHYAM PRASAD, J.

Date: 27-09-2016.

JSK

