

*THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO*

CIVIL MISCELLANEOUS APPEAL No.1073 of 2016

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

This appeal under Order 43 Rule 1(r) C.P.C. arises out of the order dated 08.08.2016 passed by the learned III Additional Chief Judge, City Civil Court, Hyderabad, in I.A.No.780 of 2016 in O.S.No.306 of 2016.

The said I.A. was filed by respondents 1 and 2 herein, the plaintiffs in the suit, under Order 39 Rules 1 and 2 C.P.C. for an interim injunction restraining respondents 1 to 3, 5, 8 and 9 in the said I.A. from selling, alienating, transferring or otherwise dealing with the suit property. This I.A. was moved before the Vacation Court and by order dated 25.05.2016, the Vacation Court granted an *ex parte* temporary injunction and posted the matter on 03.06.2016. It appears that the matter was thereafter numbered and made over to the learned III Additional Chief Judge, City Civil Court, Hyderabad.

Sri P. Shiv Kumar, learned counsel for the appellants, would state that though his clients being respondents 1 to 3, 5, 8 and 9 filed their counters before the trial Court, without considering their contentions therein, the trial Court extended the interim order until further orders on 08.08.2016. Aggrieved thereby, respondents 1 to 3, 5, 8 and 9 in the said I.A. filed this appeal.

Sri P. Shiv Kumar, learned counsel, would further point out that when C.M.A.No.845 of 2016 was preferred by the 5th respondent in the subject I.A. against similar extension of the interim order granted by the trial Court in I.A.No.781 of 2016 in O.S.No.306 of 2016, this Court disposed of the C.M.A. by order dated 27.10.2016 with certain directions.

A copy of the said order is placed on record. Perusal thereof reflects that this Court took exception to the approach of the trial Court in ignoring the mandate of Order 39 Rule 3-A C.P.C. and read down the extension of the interim order granted by the trial Court by restricting it to a period of four weeks. The trial Court was directed to dispose of I.A.No.781 of 2016 on its own merits and in accordance with law after hearing the parties within four weeks.

Sri P. Shiv Kumar, learned counsel, would state that a similar direction would suffice in the present appeal also. Sri V. Nitesh, learned counsel on caveat for respondents 1 and 2, states that he has no objection.

The civil miscellaneous appeal is accordingly disposed of reading down the order dated 08.08.2016 passed by the trial Court in I.A.No.780 of 2016 in O.S.No.306 of 2016 to mean that the interim order granted earlier would be operative only for a period of four weeks from today. The trial Court is directed to dispose of I.A.No.780 of 2016 in O.S.No.306 of 2016 on its own merits and in accordance with law after hearing the parties thereto within four weeks from today.

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

SANJAY KUMAR, J

U. DURGA PRASAD RAO, J

Date:28.12.2016

Note: Furnish C.C. in three days.

(B/o)

GJ