

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

C.M.A. NO.778 OF 2015

DATED:19-09-2016

Between:

Annam Venkat Narsimha Reddy ... Appellant

And

Annam Venkat Raji Reddy ... Respondent

COUNSEL FOR THE APPELLANT: Mr. B. Vijaysen Reddy

COUNSEL FOR THE RESPONDENT: Mr. L. Prabhakar Reddy



THE COURT MADE THE FOLLOWING:

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

At the interlocutory stage, this C.M.A. is taken up for hearing and disposal with the consent of the learned counsel for both parties.

We have heard Mr. B. Vijaysen Reddy, learned counsel for the appellant, and Mr. L. Prabhakar Reddy, learned counsel for the respondent.

The appellant filed O.S. No.11 of 2015 on the file of the Senior Civil Judge, Siricilla, for partition and allotment of 50% of the suit schedule property towards his share. He has also filed I.A. No.106 of 2015 for interim injunction restraining the respondent from alienating the suit schedule property. The said I.A. has been dismissed by order dt.8.9.2015, assailing which the plaintiff filed this appeal.

Mr. B. Vijaysen Reddy, learned counsel for the appellant, submitted that the lower Court has failed to take into consideration Ex.P.13 – certified copy of the petition in O.S.No.283 of 1995 filed jointly by the appellant and the respondent against third parties, wherein a decree was passed allotting the suit schedule property jointly to the appellant and the respondent, and some other items to the defendants therein. Mr. L. Prabhakar Reddy, learned counsel for the respondent has not disputed this document. He has also fairly conceded that the lower Court has not considered this aspect, which, in our opinion, is very vital for adjudication of I.A.No.106 of 2015. In the light of this fact, we are of the opinion that the lower Court has erroneously rejected the injunction application filed by the appellant.

In view of the fact that the appellant is claiming half share in the suit schedule property, it would be iniquitous to prevent the respondent from alienating his share half share in the property. Accordingly, the

respondent is permitted to alienate his half share in the property while keeping the balance half share in order to protect the interests of the appellant during the pendency of the suit.

The C.M.A. is accordingly partly allowed to the extent indicated above.

As a sequel to disposal of the C.M.A., C.M.A.M.P. No.1667 of 2015 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

G. SHYAM PRASAD, J

19-09-2016

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