HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No. 4339 OF 2015

ORDER :

This Civil Revision Petition is filed challenging the order and decree dated 08.09.2015 passed in C.M.A.No.3 of 2012 on the file of the Senior Civil Judge, Atmakur filed by the petitioner/plaintiff, wherein the lower appellate Court set aside the temporary injunction granted in favour of the petitioner in I.A.No.9 of 2012 in O.S.No.2 of 2012 dated 23.08.2012 in respect of the suit schedule property.

2. Learned counsel for the petitioner submits that neither the lower appellate Court nor the trial Court has marked documents filed by the respective parties and without marking the said documents, matters were decided. But the lower appellate Court without considering the same, allowed the CMA filed by the respondents by setting aside the temporary injunction granted by the trial Court.

3. On the other hand, learned counsel for the respondents submits that the appellate court has considered the documents filed by both parties before considering the issue on merits. He would further contend that basing on the documents filed by both parties, the appellate Court found that the petitioner is not in possession of the suit schedule property as on the date of filing of the suit, as such, the appellate Court has rightly reversed the grant of temporary injunction by the trial Court. He also submits that the *status quo* granted by this Court in the Civil Revision Petition dated 12.10.2015, which was extended from time to time, is creating problems and he tried to support the order of the appellate Court on merits. He also states that some Xerox copies of the documents have been filed and if the trial Court marks the documents, then the other party would have an opportunity to oppose the same at the time of marking of documents.

4. Since this Court is of the opinion that the proper procedure is not

adopted by both the Courts below, the parties are deprived of objecting marking of documents on which reliance is placed.

Rule 115 of A.P.Civil Rules of Practice and Circular Orders, 1980 provided for marking of documents, which reads as follows:

> "115. (79) Marking of Exhibits-
>
> (1) Exhibits admitted in evidence shall be marked as follows:
>
> i) If filed by the plaintiff or one of several plaintiffs, with the capital letter 'A' followed by a numeral A1, A2, A3 etc.
>
> ii) If filed by the defendant or one of several defendants with the capital letter 'B' followed by a numeral B1, B2, B3 etc.
>
> iii) If court exhibits with the capital letter 'C' followed by a numeral C1, C2, C3 etc.
>
> iv) If third party exhibits, with the capital letter 'X' followed by a numeral X1, X2, X3 etc.,
>
> (2) The exhibits filed by the several plaintiffs or defendants shall be marked consecutively.
>
> (3) If in a proceeding subsequent to the trial of a suit or matter, further exhibits are admitted in evidence, they shall be marked in accordance with the above scheme with numbers consecutive to the number on the last Exhibit previously filed."

Both the Courts below have not followed the procedure contemplated under Rule 115 of the A.P.Civil Rules of Practice and Circular Orders, 1980. Complaint is also on the ground that Xerox copies of documents have been relied on by Courts below without marking the documents. If documents were marked by both sides, who are opposing the same will get an opportunity to object the same.

Since it is stated that the petitioner was having *ex parte* injunction from 05.01.2012 and same was made absolute on 23.08.2012. Against the same, the respondent filed CMA No.3 of 2012 before the lower appellate Court. There was no interim suspension, but the said CMA was allowed on 08.09.2015. This Court granted order of Status Quo for a period of eight weeks on 12.10.2015.

In view of above facts and circumstances, the trial Court is directed to dispose of the IA No.9 of 2012 on merits, by marking the documents in accordance with Rule 115 of the A.P. Civil Rules of Practice and Circular Orders, 1980, without being influenced by any of

the observations made hereunder, within a period of four (4) weeks from the date of receipt of a copy of this Order. Till then, Status Quo granted by this Court on 12.10.2015, which was extended from time to time, shall continue.

Accordingly, this Civil Revision Petition is disposed of. No costs. As a sequel thereto, miscellaneous petitions, if any, pending in this CRP shall stand closed.

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A.RAJASHEKER REDDY, J

28.01.2016
kvs

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Date:28.01.2016

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