

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
and
THE HON'BLE SMT JUSTICE ANIS**

CIVIL MISCELLANEOUS APPEAL No.313 of 2013

JUDGMENT: (per SK, J)

This appeal was preferred by defendants 13 and 14 in O.S.No.83 of 2011 on the file of the learned II Additional District Judge, Ranga Reddy District at NTR Nagar, aggrieved by the order dated 14.11.2012 passed in I.A.No.689 of 2012 filed therein by the plaintiff for an injunction restraining the defendants from alienating or creating third party rights over the petition schedule property till disposal of the suit.

By the order under appeal, the trial Court restrained defendants 13 and 14 in the suit from alienating the petition schedule property and creating encumbrances over the same pending disposal of the suit. They were however permitted to make constructions and raise structures.

Aggrieved by the restriction placed upon them, defendants 13 and 14 filed this appeal under Order XLIII Rule 1 CPC. By order dated 15.05.2013, this Court permitted the appellants/defendants 13 and 14 to construct the villas but

directed them not to execute any document in relation to the open land.

Pertinent to note, respondents 2 to 13 in the CMA, being the other defendants in the suit, were shown as not necessary parties to the appeal. However, respondents 8 and 9/defendants 7 and 8 filed CMA.MP.No.1288 of 2015 in this appeal to vacate the interim order dated 15.05.2013. It is stated by Sri Jaya Kumar, learned counsel representing Sri P. Srinivasulu, learned counsel for respondents 8 and 9/defendants 7 and 8, that though the injunction granted by the trial Court and continued by this Court did not operate against respondents 8 and 9/defendants 7 and 8, their grievance was that the trial Court was not proceeding with the suit owing to pendency of this appeal.

Respondent No.1, the plaintiff in the suit, had earlier engaged Sri G. Madhusudan Reddy, learned counsel, to appear on her behalf. Today, however, she appeared in person before this Court and stated that she is no longer continuing with the said advocate. She produced photo identity proof in the form of a driving licence. She further stated that the interim order dated 15.05.2013 passed by this Court is sufficient protection pending disposal of the suit.

Sri G. Ramesh Babu, learned counsel representing Sri V.B. Subrahmanyam, learned counsel for the appellants/defendants 13 and 14, states that as the interim order granted by this Court as long back as on 15.05.2013 has been in operation all along, the appeal may be disposed of continuing the same till disposal of the suit.

In that view of the matter, the interim order dated 15.05.2013 is made absolute and in terms thereof, defendants 13 and 14 in the suit, the appellants herein, are permitted to proceed with the construction of the villas but they are restrained from executing any document in relation to the open land.

The CMA is accordingly disposed of. The trial Court shall take note of the fact that the suit relates to the year 2011 and endeavour to dispose of the same expeditiously.

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

SANJAY KUMAR, J

28th NOVEMBER, 2016.

ANIS, J

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