

The Hon'ble Sri Justice C.V.Nagarjuna Reddy
and

The Hon'ble Sri Justice G.Shyam Prasad

–
Civil Miscellaneous Appeal No.569 of 2016

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Date: 28.07.2016

Between:

Suryadevara Basaveswara Rao and 10 others

..Appellants

and

Koka Ravi Kumar and 4 others

..Respondents

Counsel for the Appellants: Mr.Y.Subrahmanyam

The Court made the following:

Judgment: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

At the interlocutory stage, we have taken up the Civil Miscellaneous Appeal (CMA) itself for hearing and disposal having regard to the nature of the subject matter.

This CMA arises out of Order, dated 29-04-2016, in IA.No.320 of 2016 in OS.No.99 of 2016 on the file of the III Additional District Judge, Guntur.

Respondent No.1 has filed the aforementioned suit for multiple reliefs including specific performance of an agreement of sale. In the said suit, he has filed IA.No.320 of 2016 for grant of temporary injunction restraining appellant No.1 from executing sale deeds in respect of the petition schedule property in favour of appellant Nos.8 to 11. When the said application came up for hearing before the lower Court, appellant No.1, who was personally present, requested for an adjournment by stating that his Counsel died. The lower Court has, however, declined to adjourn the case by observing that appellant No.1 has filed caveat prior to filing of the suit, engaged an advocate on 23-03-2016 and thereafter, taken time for filing counter-affidavit on 04-04-2016 and 11-04-2016, but failed to file the same. The lower Court, having regard to the apprehension expressed by respondent No.1 that appellant No.1 may alienate the schedule property to some of the respondents in the IA, granted an interim injunction restraining appellant No.1 from alienating the same till 06-06-2016.

The learned Counsel for the appellants

submitted that the said interim order of injunction was further extended later.

From the facts noted above, it is clear that for the failure of appellant No.1 to file counter-affidavit, the *ad interim* injunction was granted only to the limited extent of restraining him from alienating the schedule property. Inasmuch as the IA itself is pending before the lower Court and having regard to the innocuous relief granted by the lower Court, we are not inclined to entertain this Writ Appeal for adjudication on merits. Instead, the appellants are permitted to file counter-affidavit and also an application for vacating the interim injunction. If such an application is filed, the lower Court shall dispose of the same after hearing both sides as expeditiously as possible.

Subject to the above direction, the Civil Miscellaneous Appeal is dismissed.

As a sequel to dismissal of the Civil Miscellaneous Appeal, CMAMP.No.1156 of 2016, filed by the appellants, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 28th July, 2016
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