

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

and

The Hon'ble Sri Justice G.Shyam Prasad

Civil Miscellaneous Appeal Nos.848 & 902 of 2015

Date: 02.09.2016

Between:

Bodugu Hiranyakshudu @ Titus

..Appellants

and

Ernest Paul Komanapalli and another

..Respondents

**Counsel for the Appellants: Mr.A.Satyanarayana, Senior Counsel
for Mrs.V.Karuna Kumari**

Counsel for the respondents:Mr.SS.Bhatt

The Court made the following:



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

These two Civil Miscellaneous Appeals (CMAs) have been taken up for hearing and disposal at the interlocutory stage with the consent of the learned Counsel for the parties.

Both these CMAs are filed against Common Order, dated 08.10.2015, on the file of the Court of the learned VII Additional District Judge at Khammam. The appellants have filed IA.No.327 of 2015 for grant of an *ad interim* injunction restraining the respondents from alienating the plaint 'A' schedule property pending the suit. They have also filed IA.No.328 of 2015 under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (CPC) for grant of an *ad interim* injunction restraining the respondents from obstructing the ingress and egress to the appellants and other believers and members of the church including 'B' schedule pastors in the main road running from south to north as shown in the suit schedule plan till disposal of the suit. Both these applications having been dismissed by the lower Court, the unsuccessful plaintiffs have filed these CMAs.

Mr.Addepalli Suryanarayana, learned Senior Counsel appearing for the appellants, who is critical of the approach of

the lower Court, pointed out that though his clients have filed as many as 28 documents (Exs.A.1 to A.28), the lower Court has not considered any of them and dismissed both the applications without referring to the contents thereof . He has also submitted that in the counter-affidavit, the respondents have stated that there is no necessity to alienate the suit schedule property and that in spite of the same, the lower Court has dismissed IA.No.327 of 2015.

The learned Senior Counsel has taken us through Ex.A.3-registered gift settlement deed under which the respondents have been asserting their right, which contains a recital to the effect that the members of the Rock and Manna Church Ministries have a right to ingress and egress to take their cars and carts through the suit schedule property to reach the Mannafull Gospel Church for the purpose of performing prayers.

Mr.S.S.Bhatt, learned Counsel for the respondents, fairly admitted that his clients have averred in their counter-affidavit that there is no necessity for them to alienate the suit schedule property.

As regards the right of the appellants to have ingress and egress, the learned Counsel for the respondents fairly admitted that Ex.A.3 contains such a right only for the limited purpose of offering prayers in the Mannaful Gospel Church as referred to in Ex.A.3. He has further submitted that in the guise of exercising the right of ingress and egress to the church, the appellants are trying to interfere with the activities such as Orphanage, Mirian Children Home *etc.*, being carried on by the respondents.

Inasmuch as Ex.A.3 contains the afore-mentioned recital, the appellants are entitled to ingress and egress for the limited purpose of reaching the afore-mentioned Church for offering prayers.

As regards the submission of the learned Counsel for the respondents about the appellants' alleged interference with other activities, the learned Senior Counsel submitted that his clients have not been indulging in such interference.

Having regard to the above facts and circumstances of the case, the CMAs are partly allowed., by directing the respondents not to alienate the suit schedule property pending the suit. Similarly, the appellants are permitted to avail ingress

and egress for the purpose of offering prayers in Mannafull Gospel Church without interfering with the right of the respondents to administer the other properties including running of orphanage and children home.

As a sequel, interim order, dated 15-12-2015, is vacated and CMAMP.Nos.1831 and 1927 of 2015 are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 2nd September, 2016
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