

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CMA.No.516 OF 2016

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ORDER:

This CMA is preferred against order dated 27th May, 2016 in I.A.No.302 of 2016 in I.A.No.64 of 2016 in O.S.No.91 of 2016 on the file of V Additional District Judge, Karimnagar.

Heard both sides.

Appellant herein is plaintiff in the above referred suit and suit is filed seeking permanent injunction restraining defendants 1 to 14, their men, agents, persons claiming through them from interfering with administration/functioning/possession of entire suit schedule property including living quarter. This suit is filed before Vacation Court and vacation Civil Judge initially granted exparte injunction against all defendants and thereafter, defendant No.2 in the suit filed the above referred I.A. contending that he filed caveat, but without ordering notice to him exparte order is passed, therefore, requested the Court to set aside exparte order passed against him. Considering request of defendant No.2, Court below passed an order in I.A.No.122 of 2016 vacating exparte interim order granted against defendant No.2 and posted the matter for enquiry. Aggrieved by the said order, present CMA is filed.

It is submitted that though respondent No.2 filed counter in main I.A.No.64 of 2016, Court below without deciding that I.A. on merits, only taken up I.A. filed by

defendant No.2 and vacated interim injunction. It is submitted that because of vacating interim injunction, there is likelihood of defendant No.2, who was earlier Pastor may try to interfere with administration of Church and suit schedule properties. Therefore, order of exparte injunction has to be restored.

I have perused the material papers including impugned order dated 27.05.2016 and earlier order dated 19.05.2016. Suit itself is filed for permanent injunction therefore, interim injunction application has to be decided only on the basis of *prima facie* case and balance of convenience. Order dated 19.05.2016 is only an exparte order and as the counter is already filed on behalf of defendant No.2 instead of deciding the application filed by defendant No.2 for vacating interim order, Court below ought to have decided the main application at least in respect of defendant No.2 since he claimed rights independently.

Considering these aspects, I feel instead of taking appeal on file, this can be disposed of at the admission stage directing trial Court to take up I.A.No.64 of 2016 and decide it on merits without being influenced by any of the observations made by it in its order dated 27.05.2016.

This appeal is disposed of at the admission stage accordingly. There shall be no order as to costs.

As a sequel miscellaneous petitions, if any, pending in this appeal shall stand dismissed.

JUSTICE S.RAVI KUMAR

Dated: 14-07-2016.

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DATED: 14.07.2016

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