

HONOURABLE SRI JUSTICE A. SHANKAR NARAYANA

CIVIL REVISION PETITION No.5657 OF 2016

ORDER:

The present Civil Revision Petition is preferred by the plaintiff in O.S. No.41 of 2016 on the file of Principal Senior Civil Judge, Mancherial. She was unsuccessful in C.M.A. No.4 of 2016 on the file of III Additional District judge, Asifabad, though, succeeded in the Court of first instance in I.A. No.260 of 2013, as the trial Court passed temporary injunction on merits. In the appellate Court, C.M.A. No.4 of 2016 preferred by defendant Nos.1 and 3 was allowed reversing the order of the trial Court. Challenging the order in CMA No.4 of 2016 dated 24.09.2016, the present revision is preferred.

2. Both, Sri Nimmagadda Satyanarayana, learned counsel for the revision petitioner, and Sri M.R.S. Srinivas, learned counsel for the respondents, are in agreement for disposal of the present revision petition instead of disposing the CRP M.P. No.7331 of 2016.

3. Learned counsel for the revision petitioner would submit that the first appellate Court, in C.M.A. No.4 of 2016, went wrong in setting aside the order in I.A. No.260 of 2013; the relief sought for was partition of the plaint schedule property and allotment of share to the plaintiff, and, therefore, to injunct the respondents from alienating the subject property to preserve it as it is, till disposal of the suit, and in fact, the trial Court has recorded positive findings, though, preliminary in nature, that the revision petitioner established *prima*

facie case and the balance of convenience lies in her favour and even satisfied that the third traditional requirement of irreparable loss and hardship that would be occasioned in case the injunction was refused.

4. Learned counsel for the respondents would support the order under revision.

5. The learned III Additional District Judge, for the reasons, firstly, that the suit reached the stage of arguments, the interlocutory application for temporary injunction was entertained though, the same was pending for three (3) years without orders being passed; second, no reasons were assigned and simply extracting the necessary ingredients for grant of injunction in two lines, allowed the petition; and, of course, went to the extent of commenting, which is a bad practice, which, of course, unnecessary to express his opinion as such.

6. Turning to the stage in the main suit, as could be seen from the order in C.M.A. No.4 of 2016, the learned III Additional District Judge has recorded that the learned Senior Civil Judge heard the arguments even five months prior to passing of the order by the trial Court; the stage was that both sides ought to tender arguments.

7. Learned counsel for the respondents would submit that even the arguments were tendered by both sides and it was coming up for reply by the plaintiff, though, the learned counsel for the revision petitioner, of course, expresses ignorance for want of such instructions as required.

8. Be that as it may, when the matter itself is at the stage of arguments, it would be desirable to direct the trial Court to dispose of the suit itself within a period of two (2) months from the date of receipt of a copy of this order as no prejudice would be caused to the petitioner, in case no injunction is granted at this stage.

9. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the revision stand disposed of.

December 2, 2016.
PV

A. SHANKAR NARAYANA, J

