

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

CIVIL MISCELLANEOUS APPEAL No.826 OF 2015

J U D G M E N T
(Per Hon'ble Sri Justice Sanjay Kumar)

This appeal under Order 43 Rule 1 CPC arises out of the order dated 18.08.2015 passed by the learned V Additional District and Sessions Judge, Ranga Reddy District, at L.B.Nagar, in I.A.No.679 of 2014 in O.S.No.1217 of 2014. By the said order, the trial Court granted an interim injunction restraining the defendants from alienating the suit schedule property to third parties or creating third party interests till the disposal of the main suit. Aggrieved thereby, the defendants are in appeal.

Heard Sri Vedula Srinivas, learned counsel for the appellants/defendants, and Sri M.Damodar Reddy, learned counsel for the respondents/plaintiffs.

Perusal of the order under appeal reflects that no oral evidence was adduced but documentary evidence was placed on record by both sides. Exs.P1 to P8 were marked by the plaintiffs while Exs.R1 to R10 were marked by the defendants. The order however discloses that there is no discussion whatsoever by the trial Court as to the evidence placed on record by the defendants.

Sri Vedula Srinivas, learned counsel for the appellants/defendants, would contend that the suit agreement of sale itself is not genuine and, therefore, the trial Court ought to have considered the documents placed on record in support of the plea raised by the defendants, while determining the *prima facie* case made out by the plaintiffs.

Sri M.Damodar Reddy, learned counsel for the respondents/plaintiffs, would contend, on the other hand, that notwithstanding an order of *status quo* granted as long back as on 31.10.2014, defendants 3 and 4 entered into a Development Agreement-cum-General Power of Attorney with third parties on 04.12.2014 and that this indicates their lack of *bona fides*.

We are however of the opinion that it is wholly unnecessary at this stage for this Court to go into the merits of the matter as the trial Court failed to consider all the material placed before it while adjudicating the interlocutory application.

On this short ground, the order under appeal is set aside and the matter is remitted to the file of the learned V Additional District and Sessions Judge, Ranga Reddy District, at L.B. Nagar, for consideration afresh of the I.A. duly taking into consideration all the evidence placed on record. This exercise shall be completed expeditiously and preferably within thirty days from the date of receipt of a copy of this order. Pending fresh adjudication of the I.A., the order of *status quo* passed on 31.10.2014 by the trial Court shall remain in operation.

Civil Miscellaneous Appeal is allowed to the extent indicated above.

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

SANJAY KUMAR, J

A.V.SESHA SAI, J

08TH NOVEMBER, 2016

PGS