

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

CIVIL MISCELLANEOUS APPEAL Nos.
6, 21, 31, 32, 91 and 123 of 2016

06.09.2016

C.M.A.Nos.6, 21 and 91 of 2016:

Between:

K.Narayan Reddy

..Appellant/
defendant No.1

And

Tatipamula Srinivasulu @ Tatepally Srinivas and others

..Respondents/
plaintiffs and defendant Nos.2 and 3

Counsel for the appellant: Mr.C.Naresh Reddy

Counsel for respondent Nos.1 to 3: Mr.V.Ravi Kiran Rao

C.M.A.Nos.31, 32 and 123 of 2016:

Between:

Tatipamula Srinivasulu @ Tatepally Srinivas and others

..Appellants/
plaintiffs

And

K.Narayan Reddy and others

..Respondents/
defendants

Counsel for the appellants: Mr.V.Ravi Kiran Rao

Counsel for the respondents: Mr.C.Naresh Reddy

The Court made the following:

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

C.M.A.Nos.31, 32 and 123 of 2016 have been filed by the plaintiffs (respondent Nos.1 to 3 in C.M.A.Nos.6, 21 and 91 of 2016) and C.M.A.Nos.6, 21 and 91 of 2016 have been filed by defendant No.1 (respondent No.1 in C.M.A.Nos.31, 32 and 123 of 2016) in O.S.No.33 of 2015 on the file of the learned VIII Additional District Judge, Nizamabad,.

2. For convenience, the parties are hereinafter referred to as they are arrayed in the suit.

3. For disposal of these C.M.As., it is not necessary to record the facts in detail. It will suffice to note that plaintiff No.1 claimed to have purchased the schedule property from defendant No.3 under registered sale deed, dated 21.04.1998, along with five other persons. It is the further case of the plaintiffs that the said five purchasers sold their respective shares to them under the subsequent registered sale deeds. They have also pleaded that thereafter, by a registered lease deed, dated 18.09.2015, they have inducted a lessee in possession in respect of the ground floor portion of the schedule property *viz.*, an r.c.c. roofed building of ground plus two upper floors, of which, upper floors are at the unfinished stage. When the defendants, who claimed to have purchased the schedule property in a Court sale, sought to interfere with their possession on the purported execution of the decree in O.S.No.205 of 2002, the plaintiffs have filed O.S.No.33 of 2015 for declaration, perpetual injunction and recovery of possession of the schedule property and along with the said suit, they have also filed I.A.No.1650 of 2015 for *ad interim*

injunction restraining the defendants from alienating, creating charge or otherwise dealing with the suit schedule property or any part/portion thereof, in any manner, pending the suit and also I.A.No.1651 of 2015 for *ad interim* injunction restraining the defendants from interfering and meddling with the possession and enjoyment of the plaintiffs in, on and over the suit schedule property or any part/portion thereof, in any manner, pending the suit. Initially, the Court below has granted *ex parte* interim injunctions, as prayed for, by order, dated 20.11.2015. Thereafter, defendant No.1 has entered appearance and filed I.A.No.1709 of 2015 for setting aside the *ex parte* injunction orders. By common order, dated 04.12.2015, the Court below has converted the injunction orders to that of *status quo* order. Both the plaintiffs as well as defendant No.1 filed the present appeals feeling aggrieved by the said *status quo* order.

4. While in support of the case that physical possession was delivered to him, defendant No.1, placed reliance on Ex.R-5 - bailiff report, dated 27.09.2006, Mr.V.Ravi Kiran Rao, learned counsel for the plaintiffs, has submitted that the said bailiff's report does not contain the signatures of his clients or their lessee under Ex.P-18 – registered lease deed, dated 18.09.2015. He has further submitted that physical possession was never taken by the bailiff and that the lessee inducted by his clients is in physical possession of the ground floor, while the upper floors are at the unfinished stage.

5. Mr.C.Naresh Reddy, learned counsel for the appellant in C.M.A.Nos.6, 21 and 91 of 2016/respondent No.1 in C.M.A.Nos.31, 32 and 123 of 2016 - defendant No.1, has submitted that his client is not the native of the place where the schedule property is situated and that in the

guise of the order of *status quo*, the plaintiffs are trying to high handedly take possession of the said property and use the same. He has further submitted that his client has no objection, if the property is preserved on 'as is where is' basis lying as on today.

6. Though there is a serious dispute over the delivery of physical possession to defendant No.1, who admittedly purchased the said property in the Court auction, the fact, however, remains that except the ground floor, which is stated to have been finished, the rest of the property is at the unfinished stage and therefore, no party can claim to be in actual physical possession thereof.

7. Mr.V.Ravi Kiran Rao, learned counsel for the plaintiffs, has fairly submitted that his clients may be permitted to remove certain oil barrels, some of which contain oil and the rest of them are empty, from the schedule property. He has also raised an apprehension that as soon as the barrels are removed by his clients, antisocial elements may misuse the property.

8. In the light of the above facts and the submissions of the learned counsel, the plaintiffs are permitted to remove the oil barrels from the schedule property within a period two weeks from today. Considering the finding of the Court below that no one is in possession of the ground floor and that both the parties tried to put the subject premises under lock and key, both the parties are restrained from putting the schedule property to use, in any manner, till the disposal of the suit and having regard to the apprehension expressed by the learned counsel for the plaintiffs that the property may be misused by the third parties, we feel that the same is preserved and protected, pending the suit. Therefore, the Court below is

directed to ensure that the subject premises is properly locked, in order to see that the antisocial elements do not use the same, pending the suit and keep the key in its custody. The Court below is also directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order.

9 Subject to the above observations and directions, these Civil Miscellaneous Appeals are disposed of.

10. As a sequel to disposal of these Civil Miscellaneous Appeals, C.M.A.M.Ps. pending therein shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

06th September, 2016
GHN

