

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SMT. JUSTICE ANIS**

C.M.A.No.845 of 2016

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

This Civil Miscellaneous Appeal, under Order 43 Rule 1 (r) of C.P.C., is directed against the order dated 08.08.2016 passed by the learned III Additional Chief Judge, City Civil Court, Hyderabad, in I.A.No.781 of 2016 in O.S.No.306 of 2015.

2. The appellant is the 5th defendant in the said suit. By way of subject I.A., the plaintiffs sought an ad-interim injunction restraining the 5th defendant in the suit and all persons claiming through him from making further constructions in the suit schedule property. It appears that an ad-interim injunction was granted by the trial Court on 25.05.2016 and the matter was adjourned to 03.06.2016. The said ad-interim injunction order seems to have been extended thereafter from time to time. On 08.08.2016, the I.A. was taken up by the trial Court and noting the fact that counters were filed by respondent Nos.1, 2, 3, 5, 8 and 9, the trial Court adjourned the matter to await the report of the other respondents and extended the interim order granted earlier until further orders.

3. Significantly, defendant No.5 in the suit, who was shown as respondent No.5 in the I.A., had already filed its counter and the injunction sought therein was only against it. In spite of the contesting respondent having filed its counter, the trial Court blindly adjourned the matter on the wholly unsustainable ground of awaiting the report of the other respondents.

4. The trial Court also seems to have been unmindful of the mandate of Order 39 Rule 3-A of C.P.C., which requires it to make an endeavour to dispose of an injunction application within thirty days from the date on which injunction was granted without giving notice to the opposite party. The trial Court did not even record its reasons for the inability to do so.

5. We are, therefore, of the opinion that extension of the interim order granted earlier until further orders warrants interference. The observation of the trial Court that the interim order is extended until further orders shall be read down and shall remain operative only for a period of four weeks from today. The trial Court is further directed to dispose of I.A.No.781 of 2016 on its own merits and in accordance with law, after hearing the plaintiffs and the contesting defendant No.5 within four weeks from today.

6. The 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

ANIS, J

Date: 27.10.2016
Msr



THE HON'BLE SRI JUSTICE SANJAY KUMAR
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Msr