

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

AND

THE HON'BLE MRS. JUSTICE ANIS

C.M.A.Nos.643 and 658 of 2017

14.07.2017

Between:

Mir Tayyab Ali and others

..Appellants

and

B.Narsing Rao and others

..Respondents

Counsel for the appellants: Mr.D.Madhava Rao

Counsel for the respondents: None appeared

The Court made the following:



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

At the interlocutory stage, these appeals are taken up for hearing and disposal together with the consent of the learned counsel for the appellants.

2. The plaintiffs in O.S.No.194 of 2015 on the file of XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, filed these two civil miscellaneous appeals.

3. C.M.A.No.643 of 2017 is filed against order, dated 17.03.2017, in I.A.No.126 of 2015 in O.S.No.194 of 2015, whereby the Court below has declined to grant temporary injunction restraining the respondents from alienating/creating third party interests in respect of plots bearing Nos.90 and 91 admeasuring 444.44 sq.yrds situated in survey No.24 of Gachibowli village, Serilingampally Mandal, Ranga Reddy District (hereinafter referred to as 'the suit schedule property'). C.M.A.No.658 of 2017 is filed against the order of even date in I.A.No.127 of 2017 in O.S.No.194 of 2015, whereby the Court below has declined to grant temporary injunction restraining the respondents from changing/altering/making constructions over the suit schedule property.

4. At the hearing, Mr.D.Madhava Rao, learned counsel for the appellants, has submitted that the respondents filed O.S.No.567 of 2012 for injunction simplicitor against the appellants and in the said suit, the respondents filed I.A.No.400 of 2012 for temporary injunction. The Court below, by order, dated 06.06.2012, in I.A.No.400 of 2012, made *ad interim* injunction granted on 29.03.2012 absolute. By the said interim order, dated 29.03.2012, the Court below directed the parties to maintain *status quo* i.e., not to raise any structures and not to change any physical features of the property. The learned counsel has further submitted that despite the aforementioned order, dated 29.03.2012, passed by the Court below in the suit filed by the respondents, the latter have raised constructions in brazen violation of the said order and that therefore, in their suit filed for

declaration of title and recovery of possession, the appellants sought for the above noted reliefs claimed in I.A.Nos.126 and 127 of 2015 and that the Court below has unjustly dismissed the said applications.

5. In our opinion, when the interests of the appellants were adequately protected by passing appropriate orders in the interlocutory application filed in O.S.No.567 of 2012 filed by the respondents, any order to be passed in the suit filed by the appellants would be futile. If the grievance of the appellants is that the respondents have violated interim order, dated 29.03.2012, in I.A.No.400 of 2012 in O.S.No.567 of 2012, which was made absolute on 06.06.2012, they are entitled to avail appropriate legal remedy for redressal of their grievance in this regard. When already interim orders have been passed protecting the interests of the appellants, granting similar reliefs in the appellants' suit would not confer any better advantage on the appellants. On the contrary, granting of such interim reliefs is wholly unnecessary as observed hereinbefore.

6. In the premises as above, both these appeals are dismissed, however, leaving the appellants free to initiate appropriate legal proceedings, if the respondents have violated the orders referred to above passed in the interlocutory application in O.S.No.567 of 2012 filed by the respondents.

7. As a sequel to dismissal of these appeals, C.M.A.M.P.Nos.1059 and 1089 of 2017 filed by the appellants in C.M.A.Nos.643 and 658 of 2017 respectively for interim reliefs shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

ANI S, J

14th July, 2017
GHN