

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SMT JUSTICE T.RAJANI

C.C.C.A.No.248 of 2016

25.01.2017

Between:

M/s.Nivee Property Developers Ltd., Hyderabad

..Appellant

and

D.Vasantha Kumari and others

..Respondents

Counsel for the appellant: Mr.K.V.Pusheek Reddy

Counsel for respondent No.1: Mr.B.V.Subbaiah, senior counsel for
Mr.G.Krupachand

Counsel for respondent Nos.2 and 3: None appeared



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

At the interlocutory stage, the appeal itself is taken up for hearing with the consent of the learned counsel for both the parties.

2. Defendant No.1 in O.S.No.373 of 2009 filed this appeal against the order, dated 07.04.2016, in I.A.No.440 of 2016 in O.S.No.373 of 2009 passed under Order XII Rule 6 read with Section 151 C.P.C., whereunder the lower Court has directed the appellant/defendant No.1 to deposit the principal amount of Rs.50,00,000/- along with interest at the rate of 12% p.a. from the date of the suit till the date of deposit.

3. We have heard Mr.K.V.Rusheek Reddy, learned counsel for the appellant and Mr.B.V.Subbaiah, learned senior counsel representing Mr.G.Krupachand, learned counsel for respondent No.1. Though respondent Nos.2 and 3 have entered appearance through Mrs.Manjiri S.Ganu, learned counsel, at the hearing, no one has represented them.

4. At the hearing, it is brought to the notice of this Court that the appellant has deposited the sum of Rs.50,00,000/- in pursuance of the order under appeal. However, the liability of the appellant to pay the interest is in serious dispute in this appeal.

5. After making elaborate submissions, Mr.B.V.Subbaiah, learned senior counsel appearing for respondent No.1, has submitted that the impugned order to the extent of payment of interest may be interfered with by this Court, subject, however, to the right of his client to get the same adjudicated in the suit. He has also requested that this Court may frame an issue on the liability of the appellant to pay interest and direct the lower Court to adjudicate the same along with other issues.

6. Mr.K.V.Rusheek Reddy, learned counsel for the appellant, has submitted that his client has no objection for the afore-noted requests of the learned senior counsel for respondent No.1.

7. Having regard to the above submissions of the learned counsel for the respective parties, the appeal is partly allowed to the extent of setting aside the order under appeal in respect of payment of interest. The lower Court is directed to adjudicate the following issue by treating the same as an additional issue along with other issues:

“Whether defendant No.1 is liable to pay interest on the principal amount of Rs.50,00,000/- and if so, from what date and at what rate?”

The lower Court is further directed to dispose of the suit as expeditiously as possible and preferably, not later than four months from the date of receipt of a copy of this order.

8. As a sequel to partly allowing the appeal, C.C.C.A.M.P.No.685 of 2016 filed by the appellant for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

T.RAJANI, J

25th January, 2017
GHN