

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Ms. Justice J.Uma Devi

Civil Miscellaneous Appeal No.425 of 2017

Date: 08.06.2017

Between:

M/s.Lakshmi Priya Rice Mill
rep. by its Managing Partner
Sri Ganta Satyanarayana and
Sri Ganta Mohana Rao and 2 others

... Appellants

and

Pichikala Lakshmi Narayana

...Respondent

Counsel for the Appellants: Mr.Venkateswarlu Sanisetty

The Court made the following:



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

At the interlocutory stage, the Civil Miscellaneous Appeal (CMA) itself is disposed of with the consent of the learned Counsel for the appellants.

The respondent has filed OS.No.91 of 2016 in the Court of the VIII Additional District Judge, West Godavari District at Eluru, for specific performance of an agreement of sale. He had also filed IA.No.642 of 2016 under Order XXXIX Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) for temporary injunction restraining the appellants from alienating the suit schedule property, pending disposal of the suit. The Court below, by its Order under appeal, rendered a finding that Ex.A.1-agreement of sale *prima facie* establishes that the appellants have executed the same by agreeing to sell the suit schedule property in favour of the respondent and that any alienation made by the appellants during the pendency of the suit will create third party interests.

Mr.Venkateswarlu Sanisetty, learned Counsel for the appellants, submitted that his clients have disputed the execution of the agreement of sale. He, however, fairly conceded that, at

present, his clients are not intending to sell the suit schedule property.

The issues whether the appellants have executed the agreement of sale and the respondent is entitled to specific performance of the same need to be adjudicated in the suit. If, pending the suit, the appellants alienate the suit schedule property, third party interests would be created. Section 52 of the Transfer of Property Act, 1882, bars such alienation pending the suit. Therefore, we do not find any illegality in the order of the lower Court granting injunction against the appellants from alienating the suit schedule property pending disposal of the suit.

In the premises as above, we do not find any merit in the Civil Miscellaneous Appeal and hence, the same is dismissed.

As a sequel to dismissal of the Civil Miscellaneous Appeal, CMAMP.No.727 of 2017, filed by the appellants for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(J.Uma Devi, J)

Dt: 8th June, 2017
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