

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

AND

THE HON'BLE SRI JUSTICE M.S.K.JAI SWAL

CIVIL MISCELLANEOUS APPEAL No.470 of 2017

07.07.2017

Between:

Gundati Anjali Devi and another

..Appellants

and

Attla Narsimha Reddy and another

..Respondents

Counsel for the appellants: Mr.K.Rajanna

Counsel for the respondents: --

The Court made the following:



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

At the interlocutory stage, the appeal itself is taken up for hearing and disposal.

2. This civil miscellaneous appeal arises out of order, dated 07.03.2017, in I.A.No.658 of 2015, in O.S.No.170 of 2015, on the file of the I Additional District Judge, Karimnagar, whereby the Court below has dismissed the aforesaid I.A. filed by the appellants/plaintiffs for restraining the respondents/defendants from alienating the suit schedule properties, pending the suit filed for partition.

3. The notices sent to the respondents have been returned unserved with the endorsement "unclaimed". Therefore, the notices are deemed to have been served.

4. A perusal of the order under appeal shows that the Court below has rendered a finding that admittedly the suit schedule properties are the joint family properties. However, the interim relief claimed by the appellants was rejected on the ground that the respondents have denied the allegation that they intend to sell the properties.

5. In our opinion, when the respondents are not proposing to sell the suit schedule properties during the pendency of the suit, no harm would be caused to their interests, if they are restrained from alienating the properties. In this view of the matter, the Court below has committed an error and has failed to exercise the discretion vested in it by declining to grant injunction.

6. Therefore, the order under appeal is set aside and the respondents are restrained from alienating the suit schedule properties, pending the suit. The Civil Miscellaneous Appeal is, accordingly, allowed.

7. As a sequel to allowing the appeal, C.M.A.M.P.No.798 of 2017 filed by the appellants for interim relief shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

M.S.K.JAI SWAL, J

06th July, 2017
GHN

