

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL MISCELLANEOUS APPEAL Nos.829 & 842 of 2017

COMMON JUDGMENT:

These two Civil Miscellaneous Appeals, under Order XLIII Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, are filed by the unsuccessful appellants/plaintiffs, assailing the separate orders, dated, 19.06.2017, of the learned II Additional District Judge, Kadapa at Proddatur, passed respectively in I.A.No.537 of 2017 and I.A.No.28 of 2017, in A.S.No.6 of 2017.

2. I have heard the submissions of the learned counsel for the appellants/plaintiffs, and of the learned counsel on caveat for the respondents/defendants in both these appeals. I have perused the material record.

3. The facts of the case, which lie in a narrow compass, in brief, are as follows:-

The plaintiffs brought the suit against the defendants for declaration of title and perpetual injunction. After full-fledged trial, the trial Court dismissed the said suit by a decree and judgment, dated 21.10.2006. Aggrieved thereof, the plaintiffs preferred the afore-stated appeal before the Court of the learned II Additional District Judge, Kadapa at Proddatur. In the said appeal, the plaintiffs filed the afore-stated two interlocutory applications. In one of the applications, they sought temporary injunction not to interfere with their possession over the suit schedule property, which is marked as 'ABC' in the plaint plan. In the other application, they sought temporary injunction not to alienate the suit schedule property pending disposal of the appeal before the Court below. By the orders impugned in these two Civil

Miscellaneous Appeals, the first appellate Court dismissed both the applications. Aggrieved thereof, these two Civil Miscellaneous Appeals are preferred by the unsuccessful plaintiffs/ appellants.

4. I have perused the order impugned in C.M.A.No.829 of 2017. In the order passed in I.A.No.537 of 2017, while stating as to why the appeal was preferred and also the contentions of the parties in very few sentences, the Court below without advert to the pleadings & contentions, in required detail, and without assigning any reasons in support of its conclusions, dismissed the said interlocutory application filed for temporary injunction by stating only one sentence, which reads as under:-

“Hence under the circumstances I did not see any reason to grant relief sought by the petitioners.”

5. In the other CMA wherein the order passed in I.A.No.28 of 2017 is impugned, the said impugned order reads as follows:-

“Since I.A.No.537 of 2017 is dismissed. This petition is closed.”

Thus, the said I.A.No.28 of 2017 is not even disposed of on merits, even by a one sentence order.

6. Thus, both the orders, which are non-speaking & unreasoned and which are passed contrary to the established procedure of law, are unsustainable, in the well considered view of this Court. The learned II Additional District Judge, Kadapa at Proddatur, is obliged under facts and in law to decide the interlocutory applications filed seeking injunctions by passing reasoned orders. It is incumbent upon him to advert to the pleadings, contentions, points involved and the legal position, if any, applicable and then to record findings supported by reasons on the points involved in the applications. It is trite to observe

that the need to give reasons has been held to arise out of the need to minimise chances of arbitrariness and induce clarity. Giving reasons, apart from being an essential feature of the principles of natural justice, ensures transparency and fairness, in the decision making process. Reasons are indicative of application of mind and giving reasons is also essential when the order is amenable to further avenues of challenge.

7. Since the orders impugned, as already observed, are unreasoned non-speaking orders and do not conform to the law, well settled, this Court finds that the impugned orders are liable to be set aside.

8. Accordingly, both the Civil Miscellaneous Appeals are allowed by setting aside the orders impugned in both the appeals. As a sequel, I.A.Nos.537 of 2017 and I.A.No.28 of 2017 in A.S.No.6 of 2017 are remitted to the Court of the learned II Additional District Judge, Kadapa at Proddatur, for disposal afresh on merits and in accordance with the procedure established by law. Considering the nature of reliefs claimed and the urgency stated to have been involved, the learned II Additional District Judge, Kadapa at Proddatur, shall endeavour to dispose of both the above said interlocutory applications as expeditiously as possible and preferably within a period of one month from the date of receipt of a copy of this common judgment.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in both these appeals shall stand closed.

21st August, 2017
Bvv

M.Seetharama Murthi, J