

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

AND

THE HON'BLE MS. JUSTICE J.UMA DEVI

CIVIL MISCELLANEOUS APPEAL No.268 of 2016

15.06.2017

Between:

P.Jagan Mohan

..Appellant

and

P.Janardhan

..Respondent

Counsel for the appellant: Mr.T.Venkat Rathnam

Counsel for the respondent: None appeared

The Court made the following:



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

This civil miscellaneous appeal arises out of order, dated 26.10.2015, in I.A.No.111 of 2015 in O.S.No.478 of 2015 on the file of XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, Hyderabad.

2. Though notice has been served on the respondent, no one entered appearance on his behalf.

3. The aforementioned I.A. filed by the appellant seeking injunction restraining the respondent from alienating the suit schedule property was dismissed by the Court below mainly on the ground that the appellant failed to show that he had capacity to pay the balance sale consideration of Rs.65,00,000/-. Admittedly, the appellant failed to adduce any material, *prima facie*, proving that he had such capacity. He has, however, filed copy of sale deed, dated 01.03.2013, along with an application to receive the same as evidence in this appeal, in order to show that he had sold away his property under the said sale deed and received a sum of Rs.44,10,000/- from the vendor. Admittedly, neither a plea in this regard was raised in the plaint nor this document was produced by the appellant before the Court below. In the absence of this material, we find justification in the finding rendered by the Court below that the appellant failed to show his capacity to pay the balance sale consideration. In the light of these facts, we do not find any illegality in the order of the Court below declining to grant injunction against respondent.

4. Hence, the Civil Miscellaneous Appeal is dismissed, however, with the observation that the alienations, if any, made by the respondent during the pendency of the suit shall be subject to its outcome.

5. As a sequel to dismissal of the appeal, C.M.A.M.P.Nos.515 and 516 of 2016 filed by the appellant shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

J.UMA DEVI, J

15th June, 2017
GHN

