

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

SECOND APPEAL NO.969 OF 2017

DATED:08-09-2017

Between:

Surisetty Parvathi
and others

... Appellants

And

Golagani Apparao
and another

... Respondents

COUNSEL FOR THE APPELLANTS: Mr. G.L. Nageswar Rao

COUNSEL FOR THE RESPONDENTS: -



THE COURT MADE THE FOLLOWING:

JUDGMENT:

The concurrent judgments of the Courts below by which the right of respondent No.1 to use the two feet lane situated on the northern side of the suit schedule land purchased by him from the ancestor of the appellants are called in question in this second appeal.

Admittedly, the wife of respondent No.1 has purchased the property from one Ramaswamy, who is the ancestor of the appellants. Later, she has executed a registered gift settlement deed in favour of her husband – respondent No.1/plaintiff on 18.04.1991. It is not in dispute that both in the sale deed executed by the said Ramaswamy and also in Ex.A.1 registered gift settlement deed dt.18.04.1991 the two feet lane was shown as northern boundary to the property. However, the appellants have occupied the said two feet lane and raised constructions marked as A B C D E F portions in the plan. The Courts below have concurrently found that when a lane has been left to facilitate respondent No.1 – plaintiff to enjoy easementary rights such as, air and light, the appellants are not entitled to raise construction closing the land detrimental to the interests of respondent No.1.

At the hearing, the only submission advanced by Mr. G.L. Nageswara Rao, learned counsel for the appellants, is that respondent No.1 has not left any set back over his plot while raising constructions and that had the required set backs been left, there would not have been any necessity for him to claim easementary rights over the two feet lane. I am afraid, I cannot accept this submission.

The question whether the constructions raised by respondent No.1 are illegal or not is not the subject matter of the suit. The relevant issue that was raised and decided by both the Courts below was whether the

appellants had a right to make constructions over the two feet lane which was left open to facilitate enjoyment of easementary rights. Based on the evidence on record, both the Courts below have answered the issues in favour of respondent No.1. Therefore, I do not find any substantial question of law in this second appeal.

The second appeal is accordingly dismissed.

C.V. NAGARJUNA REDDY, J

08-09-2017

bnr

