

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE MRS JUSTICE ANI S

CIVIL MISCELLANEOUS APPEAL Nos. 358 of 2016 and 70 of 2017

Date: 14.07.2017

CIVIL MISCELLANEOUS APPEAL No. 358 of 2016

Between:

Anthony Mills, S/o.late Leonard Mills,
R/o. D.No.11-244, Ramakrishna Nagar,
Gopalapatnam, Visakhapatnam.

..... Appellant

And:

Sri Neville Mills, S/o. Late Leonard Joseph Mills,
R/o. D.No.11-254, Rama Krishna Nagar,
Gopalapatnam, Visakhapatnam, and others.

.....Respondents

Counsel for the Appellant: Sri M. Sudheer Kumar

Counsel for Respondent No.6: Smt. Uma Devi
For Sri G. Rama Gopal

The Court made the following:



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

The plaintiff in O.S.No.162 of 2012 filed C.M.A.Nos.358 of 2016 and 70 of 2017 questioning the common order dated 16.12.2015 passed in I.A.Nos.677 and 939 of 2012 in O.S.No.162 of 2012 (wrongly mentioned as O.P.No.162 of 2012 in the common order under appeals) on the file of the Judge, Family Court-cum-V Additional District & Sessions Judge, Visakhapatnam, vacating the order of *status quo* and letting respondent No.6 off by imposing a fine of Rs.2,000/- instead of sending him to civil prison for violation of the order of *status quo*, respectively.

We have heard Sri M. Sudheer Kumar, learned counsel for the appellant and Smt. Uma Devi, learned counsel representing Sri G. Rama Gopal, learned counsel for respondent No.6.

The appellant filed I.A.No.677 of 2012 for an injunction restraining the respondents from alienating the suit schedule property pending the suit. An order of *status quo* was granted by the lower Court on 26.04.2012. The appellant filed I.A.No.939 of 2012 under Order XXXIX Rule 2A of the Code of Civil Procedure for arresting and remanding respondent No.6 to civil prison on the ground of violation of the said order of *status quo*. These applications having been dismissed by the lower Court vacating the *status quo* order and letting respondent No.6 off by imposing a fine of Rs.2,000/- , the plaintiff filed these Civil Miscellaneous Appeals.

At the hearing of these cases, on the suggestion made by the Bench, respondent No.6, who purchased the suit schedule property from respondent Nos.1 to 5 and constructed a building thereon, filed an affidavit dated 06.07.2017 wherein he has undertaken not to alienate the

suit schedule property including the building constructed thereon to the extent of 1/3rd of the suit schedule property pending disposal of the suit.

Mr. M. Sudheer Kumar, learned counsel for the appellant, expressed an apprehension that respondent No.6 may create third party interest such as mortgage etc.

In the light of this apprehension, while placing on record the affidavit of undertaking given by respondent No.6 that he will not alienate 1/3rd of the suit schedule property including the building constructed thereon, he is restrained from creating third party interest over the 1/3rd of the suit schedule property including the building in any manner pending the suit.

Both the Civil Miscellaneous Appeals accordingly stand disposed of.

As a sequel to disposal of the Civil Miscellaneous Appeals, C.M.A.M.P.No.714 of 2016 in C.M.A.No.358 of 2016 filed by the appellant for interim relief is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

ANIS, J

Date: 14.07.2017
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