

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

AND

THE HON'BLE MS. JUSTICE J.UMA DEVI

CIVIL MISCELLANEOUS APPEAL No.115 of 2016

15.06.2017

Between:

Sri Navaru Narasimha Reddy and others

..Appellants

and

Sri Navaru Sanjeeva Reddy and others

..Respondents

Counsel for the appellants: Mr.B.Venkateswarlu for Mr.T.Rathnakar

Counsel for the respondents: Mr.N.Raghava Rao

The Court made the following:



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

At the interlocutory stage, the civil miscellaneous appeal itself is taken up for hearing and disposal, having regard to its nature and with the consent of the learned counsel for both the parties.

2. The unsuccessful applicants in I.A.No.922 of 2015 on the file of the Special Sessions Judge for SCs/STs (POA) Act, 1989-cum-VII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar, have filed this appeal feeling aggrieved by the dismissal of the said I.A. filed for injunction restraining the respondents from constructing house over the suit schedule property. The said I.A. was filed by the plaintiffs in O.S.No.502 of 2015 filed for partition of the suit schedule property. On weighing the elements of *prima facie* case and balance of convenience, the Court below has dismissed the I.A. In this process, it has reached the following findings:

“In view of the above discussions the petitioners failed to prove that they are having Ac.1.09 gts after selling their property, the schedule of property shown in the petition clearly shows that with an intention to prevent the Respondents for utilizing the property they shows the properties of the Respondents along with Ac.1.09 guntas in Sy.No.92/part, the Respondents filed sale deeds executed by the petitioners shows that the petitioners has also sold Ac.1.09 gts of land. Hence, the petitioners has no *prima facie* case and balance of convenience in their favour.”

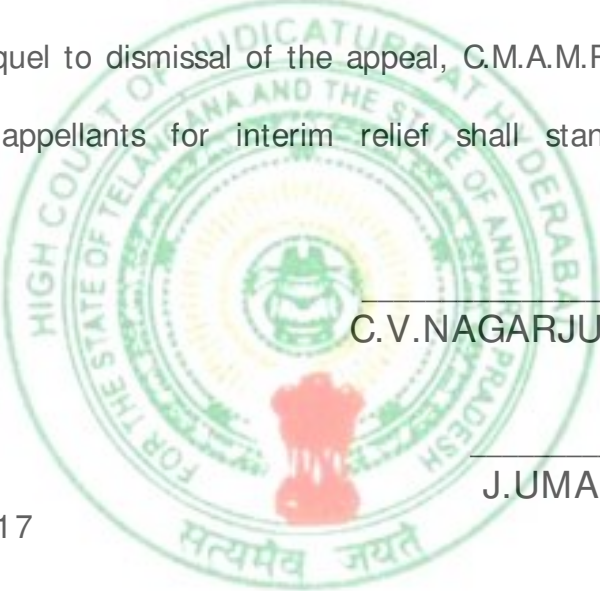
The order under appeal was passed as far back as 10.07.2015.

3. Relying upon the findings of the Court below as reproduced above, Mr.N.Raghava Rao, learned counsel for the respondents, has submitted that the appellants had only Ac.1.09 guntas forming part of the suit schedule property and that even that property was sold by them to the respondents.

4. As the suit is pending, it is not appropriate for us to render any findings on various disputed aspects. The fact, however, remains that the appellants did not have an order of injunction in their favour for the last two years. In these facts and circumstances of the case, we are not inclined to interfere with the order of the Court below at this stage.

5. The Civil Miscellaneous Appeal is, accordingly, dismissed, however, with the observation that the constructions, if any, made pending the suit shall be subject to the outcome thereof and the respondents shall not claim any equity with respect to such constructions.

6. As a sequel to dismissal of the appeal, C.M.A.M.P.No.301 of 2016 filed by the appellants for interim relief shall stand dismissed as infructuous.



C.V.NAGARJUNA REDDY, J

J.UMA DEVI, J

15th June, 2017
GHN