

HON' BLE SRI JUSTICE SURESH KUMAR KAIT
&
HON' BLE SRI JUSTICE U. DURGA PRASAD RAO

C.M.A. Nos. 584, 577 and 578 of 2015

COMMON JUDGMENT:- (ORAL)

(Per Hon'ble Sri Justice Suresh Kumar Kait)

1) Inasmuch as the question and fact and law and the parties involved in these Civil Miscellaneous Appeals are one and the same, these matters are taken up together for disposal by this Common Judgment.

2) These appeals arise out of the Common Order dated 27.04.2015 in I.A.Nos.1473, 1474 and 1475 of 2013 in O.S.No. 515 of 2013 passed by the learned III Additional Chief Judge, City Civil Court, Hyderabad, whereby the petitions filed by the appellant seeking interim injunction were dismissed.

3) It is pertinent to note that vide I.A.No. 1475 of 2013, the appellant sought interim injunction against respondent Nos.1 to 4 restraining them or their agents, etc. from changing the nature of the suit schedule property or dealing or transferring the same in any manner during pendency of the suit.

4) Vide I.A.No. 1474 of 2013, the appellant sought interim injunction against respondent No.12 or its officials concerned over suit schedule property restraining them from registering any documents, etc. in respect of the suit schedule

property or whatsoever its nature produced by respondent Nos.1 to 4 or their agents, etc. during pendency of the suit.

5) Vide I.A.No. 1473 of 2013, the appellant sought interim injunction against respondent No.13 or its official subordinates, etc. restraining them from granting any permission in respect of the suit schedule property for construction of whatsoever its manner, applied by respondent Nos.1 to 4 or their agents, etc. during pendency of the suit.

6) The appellant is the plaintiff in O.S.No. 515 of 2013. The appellant and the 1st respondent / 1st defendant entered into an agreement of sale with respondent Nos.5 to 11 – defendant Nos.5 to 11 to purchase property bearing No.15-5-420 and 421 admeasuring 406 square yards (double-storied building) situated at Akber Jah Bazar, Ashok Bazar, Afzalgunj, Hyderabad, Telangana State for a total and valuable consideration of Rs.4,06,00,000/- i.e. Rs.1.00 lakh per square yard. Respondent Nos.5 to 11, on receipt of Rs.1.00 crore by way of cheques from the appellant and cash from the 1st respondent i.e. Rs.50.00 lakhs plus Rs.50.00 lakhs towards advance sale consideration, executed an agreement of sale on 12.12.2011 in favour of the appellant and the 1st respondent. Respondent Nos.5 to 11 could not evict their tenants from the property in question. Respondent Nos.2 to 4, who are defendant Nos.2 to 4 in O.S.No. 515 of 2013, are

sons of the 1st respondent. Apart from this, the 2nd respondent is carrying on partnership business in M/s.Bhavant Trading Company at P.No.15-4-614 to 616, Akbar Jah Bazar, Ashok Bazar, Afzalgunj, Hyderabad with Kartha of the appellant as the said premises belongs to him.

7) On 31.07.2012, at about 07:00 P.M., the appellant came to know that respondent Nos.5 to 11 executed sale deed document No.1432 of 2012 in respect of their property which includes the suit schedule property in favour of respondent Nos.2 to 4 illegally and against the terms and conditions of the Agreement of Sale dated 12.12.2011.

8) Based on the disputes arose between the appellant and the respondents, the appellant-plaintiff file O.S.No. 515 of 2013 for specific performance of contract and the same is pending for disposal.

9) The learned counsel for the respondents – defendants submits that he has no objection if the present cases are remanded to the trial Court with a direction to dispose of the suit finally. On instructions, he has undertaken that the respondents shall not change the nature of the suit schedule property or deal or transfer the same in any manner during pendency of the suit.

10) In view of the averments made in these appeals and the submissions of the learned counsel for both the

parties, we deem it appropriate to dispose of these appeals with a direction to III Additional Chief Judge, City Civil Court, Hyderabad to dispose of O.S.No. 515 of 2013 within four months from the date of receipt of a copy of this order. Till disposal of the suit, respondent Nos.1 to 4 are restrained from changing the nature of the suit schedule property or dealing or transferring the same in any manner during pendency of the suit; Respondent Nos.12 is directed not to register any documents etc. in respect of the suit schedule property or whatsoever its nature produced by respondent Nos.1 to 4 or their agents, etc. during pendency of the suit and Respondent No.13 or his official subordinates, etc. are also restrained from granting any permission in respect of the suit schedule property for construction of whatsoever its manner, applied by respondent Nos.1 to 4 or their agents, etc. during pendency of the suit. It is made clear that the trial Court shall not give unnecessary adjournments to any of the parties.

11) With the above directions, these Civil Miscellaneous Appeals are disposed of. No order as to costs.

12) As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

07.04.2017

SURESH KUMAR KAIT, J

bcj

U. DURGA PRASAD RAO, J