

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

[Special Original Jurisdiction]

THURSDAY THE TWENTIETH DAY OF APRIL
TWO THOUSAND AND SEVENTEEN

PRESENT

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO**

CIVIL MISCELLANEOUS APPEAL NO. 244 OF 2017

Between:

Avula Govardhana Reddy & Anr. ... Appellants/R-1 & R-2/D-1 & D-2

V/s.

Pothureddi Sitaramaiah & Anr. ... Respondents/Petitioner/Plaintiffs



Counsel for the Appellants : Sri M. Karuna Sagar

Counsel for the Respondents : None

The court made the following : [judgment follows]

**HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO**

CIVIL MISCELLANEOUS APPEAL No. 244 OF 2017

ORDER : [O R A L] :

[Per the Hon'ble Sri Justice Suresh Kumar Kait]

This Civil Miscellaneous Appeal is filed by the appellants/respondents 1 and 2 under Order-43, Rule-1 of C.P.C., against the order dated 19/8/2016 passed in I.A.No. 1389 of 2016 in OS.No. 532 of 2016 by the IV-Additional District Judge, Visakhapatnam, whereby the trial Judge directed the respondents to maintain *status quo* of schedule property till further hearing.

2. It is not in dispute that the IV-Additional District Judge passed the interim order and listed the matter on 14/3/2017 for hearing.

3. Sri M. Karuna Sagar, learned counsel appearing on behalf of the appellants submits that even before passing the impugned order, he filed counter-affidavit to I.A.No. 1389 of

2016, however, the court below without hearing the appellants has passed the impugned order dated 08/3/2017.

4. The case of the appellant is that after passing the interim order, the learned IV-Additional District Judge is adjourning the matter on pretext or the other, however, his counter-affidavit is not considered and passed any order thereafter.

5. Keeping in view the facts noted above, we hereby direct the IV-Additional District Judge, Visakhapatnam, to consider the counter-affidavit of the appellant and after hearing both parties pass order on merits. We hereby make it clear that if the court below is of the opinion that the interim order is necessary that will be after hearing of the appellants and considering the counter-affidavit filed by the appellants.

6. In view of the above, we hereby dispose of the Civil Miscellaneous Appeal at the admission stage. No costs.

7. We hereby make it clear that the IV-Additional District Judge, Visakhapatnam, shall pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

8. With the above direction, CMA is disposed of. No costs.



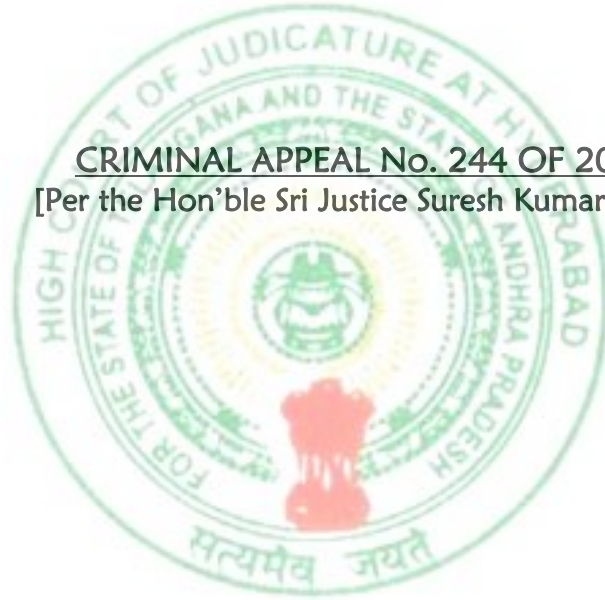
JUSTICE SURESH KUMAR KAIT.

JUSTICE U. DURGA PRASAD RAO.

20/04/2017
I s L

CMA.No. 244 of 2017 – SKKJ & UDPRJ
Per SKK, J.

HONOURABLE SRI JUSTICE SURESH KUMAR KAIT
AND
HONOURABLE SRI JUSTICE U. DURGA PRASAD RAO.



CRIMINAL APPEAL No. 244 OF 2017
[Per the Hon'ble Sri Justice Suresh Kumar Kait]

Date: 20/04/2017
Circulation No.
Court Master: I s L