

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CMA No.1076 of 2017

JUDGMENT:

Heard Sri Vedula Srinivas, learned counsel appearing for appellant.

2. This CMA is disposed of at the admission stage, as this Court considers not expedient to order notice to respondents.

3. The instant CMA was filed against the *ex-parte* order dated 10.8.2017 passed in I.A. No. 631 of 2017 in O.S.No. 42 of 2017 by the learned XIII Additional District Judge, Narasaraopeta, Guntur District, wherein the learned Judge has granted *ex-parte* and interim injunction in favour of the plaintiff restraining the respondents therein by means of temporary injunction from alienating the petition schedule properties till 19.9.2017. It appears the injunction order was extended thereafter, as per the submission of learned counsel for petitioner. Questioning the said order, the present appellant, who is the third defendant in the suit, filed the instant CMA.

4. As can be seen from the impugned order, the trial Court having observed that pending suit if the respondents were to alienate the suit properties, invariably, it would lead to multiplicity of proceedings besides loss to the petitioner/company. On such observation, the trial Court passed the interim injunction *ex-parte*.

5. Without going into the merits of the case, since the order impugned is only an *ex-parte* order and as there is no occasion for the trial Court to know

the contention of the respondents before it, this Court is of the view that the present appellant, and the other respondents in the said petition, can appear and file their counters and agitate before the trial Court about the validity of the impugned order. It is no doubt true that the appellant/defendant No. 3 has a right to prefer CMA even against the *ex-parte* order. However, in order to have a better appreciation over the subject and to dispose of the matter at the earliest, this Court is of the view that the trial Court can be directed to receive the counters of the parties and dispose of the matter within a reasonable time.

6. In the result, the appellant is directed to appear before the trial Court and file counter and get ready for enquiry in I.A No. 631 of 2017. The trial Court shall after receiving counters of the respondents appearing before it, dispose of the IA on merits. The entire exercise shall be completed within four months from the date of receipt of copy of this order by Trial Court.

7. Accordingly, the CMA is disposed of. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 12.10.2017
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U.DURGA PRASAD RAO, J