

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

CONTEMPT CASE NO.1819 OF 2016

DATED:23-02-2017

Between:

Ulthi Ulthappa ... Petitioner

And

K. Jalajakshi ... Respondent

COUNSEL FOR THE PETITIONER: Mr. P.R. Prasad

COUNSEL FOR THE RESPONDENT: Mr. P. Rajasekhar



THE COURT MADE THE FOLLOWING:

ORDER:

This contempt case is filed alleging wilful disobedience of order dt.21.01.2015 in A.S.M.P. No.1743 of 2014 in A.S. No.474 of 2014.

The appellant in the aforementioned appeal filed a suit for specific performance of an agreement of sale. The suit having been dismissed, he has filed the above noted appeal. In A.S.M.P. No.1743 of 2014 this Court has granted an injunction restraining the respondent from alienating or changing the nature and character of the plaint schedule property. However, she was permitted to carry on agricultural operations over the said property.

The petitioner has averred in the contempt case that despite the injunction order, the respondent has created a mortgage in favour of the bank for availing agricultural loan. In the counter affidavit filed by the respondent, it is *inter alia* stated that in order to raise crops she has availed agricultural loan by offering the suit schedule property as security and that she has repaid the loan. She has further averred that mere mortgage of the property does not amount to alienation and therefore she has not violated the order of this Court.

The learned counsel for the petitioner has not disputed the fact that the respondent has repaid the loan amount. His contention, however, is that had the respondent committed default in repayment of the loan amount, the bank would have been entitled to alienate the property. On the petitioner's own plea, the respondent has not alienated the property. While the mortgage does not amount to alienation, it only creates encumbrance. The respondent is not prevented from encumbering the property by the aforementioned order. Inasmuch as she has repaid the loan amount, thereby preventing the situation of the bank

alienating the property, the respondent cannot be said to have violated the order of this Court.

For the aforementioned reasons, the contempt case is dismissed.

---

C.V. NAGARJUNA REDDY, J

23-02-2017

*bnr*

