

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.Nos.971, 972, 1018 and 1053 of 2017

COMMON JUDGMENT: (per SK,J)

These appeals arise out of the separate orders dated 04.08.2017 passed by the learned V Additional District Judge at Bhongir, Nalgonda District, in I.A.Nos.351 and 352 of 2016 in O.S.No.175 of 2016.

Perusal of the orders reflects that the trial Court having set out the pleadings and the legal principles at length, reserved its reasoning for the last page. Therein, the trial Court observed that no documents were marked on either side for proper appreciation. Having said so, immediately thereafter, the trial Court stated that after perusing the documents available on record, it was found that the petitioner in the I.As. entered into an agreement of sale with respondents 1 and 2. Basing on the strength of these documents, which formed part of the record, the trial Court converted the orders of *status quo* granted earlier into temporary injunctions restraining the respondents/defendants 1 to 7 from dealing with the suit schedule property in any manner and from alienating it in favour of third parties till the disposal of the suit.

Respondents 1 to 7 in both the I.As., the defendants in the suit, filed these appeals.

Sri P.Veera Reddy, learned senior counsel appearing for Sri Raghavan K Thalapaka, learned counsel for respondents 1 and 2 in the I.As., defendants 1 and 2 in the suit, and Sri K.Buchi Babu, learned counsel for respondents 3 to 7 in the I.As, defendants 3 to 7 in the suit, would submit that the manner in which the trial Court went about dealing

with the I.As. is opposed to the procedure laid down by this Court as long back as in the year 1998 in Bhoopal Reddy v. K.R.Laxmi Bai¹, which was reiterated recently in R.Parijatham v. M.Kameshwari².

Reference may be made to the observations in para 8 in R.Parijatham, in this regard:

‘Before closing these cases, we feel the necessity of observing that instances have been coming to the notice of this Court, where some subordinate Courts have not been marking the documents while disposing of the interlocutory applications. In this context, we are reminded of a Division Bench judgment of this Court in T.Bhoopal Reddy v. K.R.Laxmi Bai, 1998 (1) ALD 770 (DB) = 1998 (1) ALT 292 (DB); wherein it was observed that in order to come to a *prima facie* conclusion, both the trial Court and the appellate Court should necessarily be able to locate the documents and know its contents to agree with either of the contentions; that nowhere it is envisaged that the case of the contesting parties can only be decided on the affidavits and not on any other material and that in the absence of any specific rule so far as marking of documents at the interlocutory stage is concerned, the Courts would not be justified in not giving any marking at all to such of the documents on which both sides would rely. Regrettably, despite this authoritative pronouncement of the Division Bench, some Courts have been ignoring the same and not marking the documents. The case on hand reflects one such instance...’

Sri Sai Gangadhar Chamorthy, learned counsel for the contesting respondent/plaintiff in these appeals, would fairly state that the trial Court did not follow the due procedure while dealing with the subject I.As.

This being the situation and as we also find that the trial Court failed to record proper reasons for grant of the temporary injunctions, we are of the opinion that the matter requires to be heard afresh.

The orders under appeal are accordingly set aside and the matter is remitted to the learned V Additional District Judge at Bhongir, Nalgonda

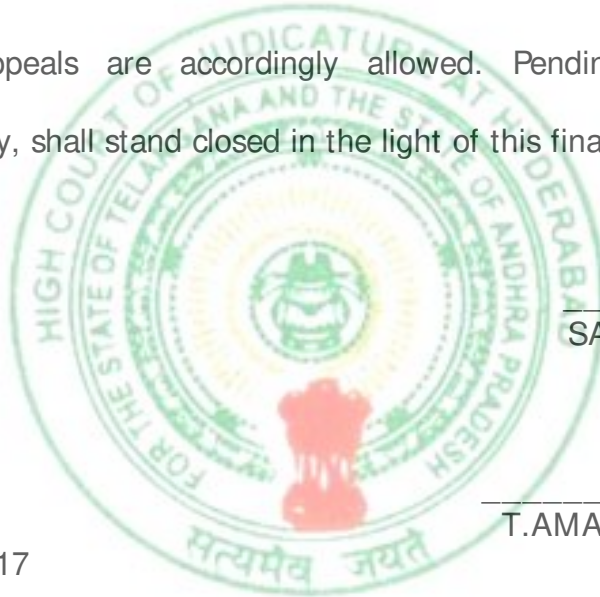
¹ 1998 (1) ALD 770 (DB)

² 2017 (5) ALD 348 (DB)

District, for consideration of the I.As. afresh on their own merits and in accordance with law, duly taking note of the aforestated observations made by this Court in R.Parijatham.

As this is the second round of litigation, the trial Court shall endeavour to dispose of the I.As. on merits expeditiously and preferably within four weeks from the date of receipt of a copy of this order. Since orders of *status quo* were in operation pending the earlier disposal of the I.As., we are of the opinion that the parties should maintain *status quo* pending the disposal of the I.As. afresh, consequent upon this remand order.

The appeals are accordingly allowed. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.



SANJAY KUMAR,J

T.AMARNATH GOUD,J

Date:12.10.2017

GJ