

HON'BLE Dr. JUSTICE B. SIVA SANKARA RAO

CIVIL MISCELLANEOUS APPEAL No.1221 of 2017

JUDGMENT :

Heard both sides and perused the grounds of appeal and the impugned order in I.A.No.1075 of 2014, dated 09.11.2015, by the learned II Additional District Judge, West Godavari at Eluru, granting injunction restraining the defendant/appellant herein from alienating in any manner of the plaint schedule property pending disposal of the suit for the relief of cancellation of the registered sale deed allegedly obtained by the defendant from the plaintiff without payment of sale consideration with a recital in the sale deed as if paid, thereby in the alternative entitled to the amount or the like reliefs and the trial Court by the impugned order granted injunction. It is impugning the same, the present appeal is filed.

2. From perusal of the material, whether the sale deed is liable to be cancelled or not, is in the main issue and for establishing existence of *prima facie* case concerned, there must be *bonafide* contention involving a trible issue and something more than and not the ultimate success. Once it is the conclusion even arrived by the lower Court with reference to the facts of existence of *prima facie* case *vis-à-vis* the balance of convenience and plaintiff otherwise will suffer irreparable injury, for this Court while sitting in appeal, there is to interfere with the reasoned order merely because there is any view possible from the effort of the learned counsel for the appellant in

trying to convince the Court and that is not the scope of interfere by appellate Court, for this Court there is nothing to interfere, but for to say none of the observations in the impugned order of the lower Court shall influence the mind of the trial Court in deciding the suit on own merits and because the suit is of the year 2014, subject to other priority shall give preferential disposal.

3. Accordingly, the civil miscellaneous appeal is disposed of.

Miscellaneous petitions pending, if any, shall stand dismissed.

No order as to costs.

22nd December 2017.

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Dr. B. SIVA SANKARA RAO, J

