

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

C.M.A.No.114 of 2018

Date: 07.03.2018

Between:

Jeeru Ganesh Reddy S/o.Appala Reddy,
Hindu, Aged about 52 years, Occ: Business,
R/o.H.No.Flat No.102, Gandapalli Residency,
Lawson's Bay Colony, Visakhapatnam ... Appellant

And

Jeeru Suryanarayana Reddy (Died)
and eight others ... Respondents

Counsel for the Petitioner : Mr. Radha Krishna.M.

Counsel for the Respondents: Mr.G.Rama Gopal

The Court made the following:

Order: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

At the interlocutory stage, the C.M.A. is taken up for hearing and disposed of, with the consent of the learned counsel for both the parties.

2. This C.M.A. is filed against order dated 19.01.2018 in I.A.No.759 of 2015 in O.S.No.327 of 2015 on the file of the VII Additional District Judge (FTC), Visakhapatnam. The appellant has filed the aforementioned suit *inter alia* for partition of the suit schedule property into two equal shares in the first instance and one such half share into three equal shares and to allot 1/3rd share to the appellant. Along with the suit, the appellant has filed I.A.No.759 of 2015, for grant of temporary injunction, restraining respondents No. 1 to 6, from alienating or creating any documents in favour of third parties. Initially, an ad interim order of status-quo, was granted by the lower Court till 30.06.2015. After the contesting respondents filed written statement and counter affidavit, the Court below has disposed of the I.A., by its order dated 19.01.2018. While observing that though the respondents have filed a will alleged to have been executed by the wife of late Jeeru Naidu Reddy in the year 1969, no finding can be given at the interlocutory stage regarding the properties mentioned therein and that the genuineness or otherwise of the entries in the revenue records issued by Me-Seva, pattadar

pass books also, can be decided only after full fledged trial, the lower court has vacated the interim order.

3. In an application for injunction, the court has to weigh the elements of prima facie case, the balance of convenience and irreparable injury and record findings with respect thereof. Nowhere in the order, the court below has discussed these essential elements and vacated the interim injunction, without assigning reasons in support of its conclusion.

4. At the hearing Mr.G.Ramagopal learned counsel for the contesting respondents, is unable to point out any reasons assigned by the lower court for vacating the interim order. Therefore, the order under appeal cannot be sustained, and the same is accordingly, set aside. The matter is remanded to the lower court for fresh disposal, by passing an appropriate order afresh, giving reasons for its conclusion.

5. Civil miscellaneous application is, accordingly allowed.

6. As a sequel, interlocutory applications if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad,J)

Date: 07th March, 2018

msb

