

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

AND

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

A.S.No.429 of 2017

Date: 04.04.2018

Between:

Pusapati Savithri,
W/o.Veeranjaneya Prasad,
58 years, R/o.Vinjamuri Vari street,
Bapatla, Guntur district

... Appellant

And

Buddaraju Padmavathi,
W/o.Subrahmanyam, 56 years,
R/o.Q.No.T2/1D, Near Ramalayam
Bapu Camp, Kothagudem,
Khammam district

... Respondent



Counsel for the Appellant : Mr. T.V.S.Prabhakararao

Counsel for the Respondent: Mr.Aravala Srinivasa Rao

The Court made the following:

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

This appeal is filed against final decree dated 25.07.2016 passed in I.A.No.664 of 2014 in O.S.No.49 of 2011 on the file of the VIII Additional District Judge, Krishna district at Vijayawada. When the interlocutory applications filed for condonation of delay in filing the appeal and also for an *ad interim* injunction, were taken up for hearing, the learned counsel for the respondent raised objection about the maintainability of the appeal, on the ground that the final decree sought to be questioned in this appeal is a consent decree.

2. A perusal of the final decree shows that it is recited therein that the parties had no objection on the report of the Advocate Commissioner and have agreed to receive the shares as shown in the plan enclosed to Advocate Commissioner's report and that based on the said consent, the court proceeded to pass the final decree.

3. Mr.T.V.S.Prabahakar Rao, learned counsel for the appellant, disputed the correctness of the contents of the final decree as regards the alleged consent given by his client. However, it is not possible for this court to adjudicate the said disputed question in this appeal, unless the appellant files a review and invites an order thereon. Accordingly, we are not inclined to entertain this appeal for adjudication on merits at this stage. Instead, the appellant is relegated to the remedy of review before the lower court. In the event the

appellant does not succeed in the review, he would then be entitled to avail the remedy of appeal before this Court.

4. Subject to this liberty given to the appellant, the appeal is dismissed, without adjudicating the same on merits.

5. As a sequel to dismissal of the appeal, miscellaneous applications if any, are disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(D.V.S.S.Somayajulu, J)

Date: 04th April, 2018

msb



