

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice Gudiseva Shyam Prasad

Civil Miscellaneous Appeal No.154 of 2018

Date: 14.08.2018

Between:

Tiruveedhi Nagendra

..Appellant

and

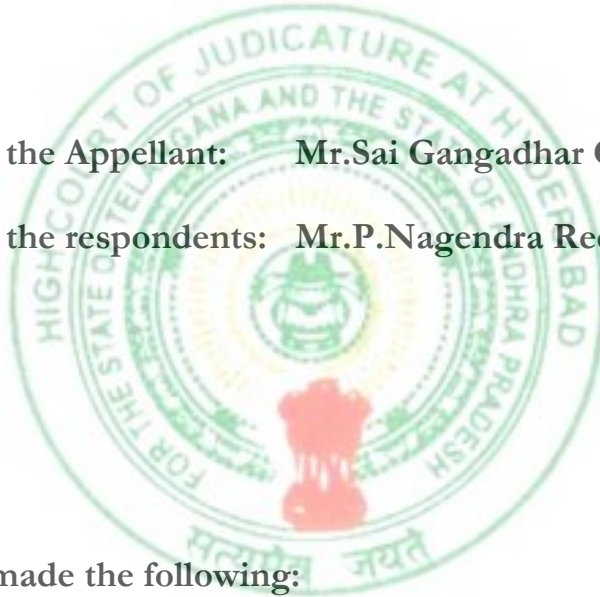
Pulavarthi Kartheek and another

..Respondents

Counsel for the Appellant: Mr.Sai Gangadhar Chamarthi

Counsel for the respondents: Mr.P.Nagendra Reddy

The Court made the following:



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

This Civil Miscellaneous Appeal (CMA) is filed against Order, dated 31-01-2018, in IA.No.287 of 2017 in OS.No.17 of 2017 on the file of the XV Additional District Judge at Nuzvid, Krishna District.

We have heard Mr.Sai Gangadhar Chamarthi, learned Counsel for the appellant, and perused the record.

Respondent No.2 is the mother of Respondent No.1 and sister of the appellant. Respondents have filed OS.No.17 of 2017 *inter alia* for declaration of title and permanent injunction restraining the appellant from interfering with their possession over the plaint A and B schedule properties. It is their pleaded case that one Eluru Narayana, who is the father of the appellant as well as respondent No.2, was, admittedly, the owner of the plaint schedule properties; that he has registered gift settlement deeds, dated 22-06-2016, conveying the plaint A and B schedule properties to respondent Nos.1 and 2 respectively. As the appellant has tried to interfere with their possession, they have filed the aforementioned suit. Along with the suit,

they have filed IA.No.287 of 2017 for grant of temporary injunction. In support of their case, the appellants have filed registered settlement deeds, dated 22.06.2016, along with various other documents such as copies of pahanis, FMBs, land revenue receipts *etc.*, The appellant has resisted the said IA by taking the stand that in the year 2005, her father has gifted the plaint schedule properties to her towards Pasupu Kumkuma. This plea is not supported by any document. The appellant has produced Exs.R.1 to R.9, which included photocopies of notices issued by the electricity department, house tax receipts, electricity receipts *etc.*

The Court below, while weighing the evidence produced by the respective parties, has observed as under:

“For the purpose of this petition, it is sufficient to consider prima-facie material placed by both sides through the documents marked without adducing evidence. Out of the documents marked for respondent, the respondent mainly relies on true copies of electricity notice, house tax receipts and reference of receipt numbers issued by PACS, standing in her name. I am of the view that certain stray documents showing her name in the house tax receipt and electricity bills do not automatically confer or prove her possession over the property especially when

the petitioners are able to place prima-facie case by showing all the relevant documents like registered settlement deeds, pattadar pass book and title deeds, pahanis, proceedings and correspondence with the revenue authorities over a period of 12 years. The respondent appears to be mainly relying on a document said to have been executed by her father conveying the schedule property towards 'pasupu kumkuma', which is under dispute."

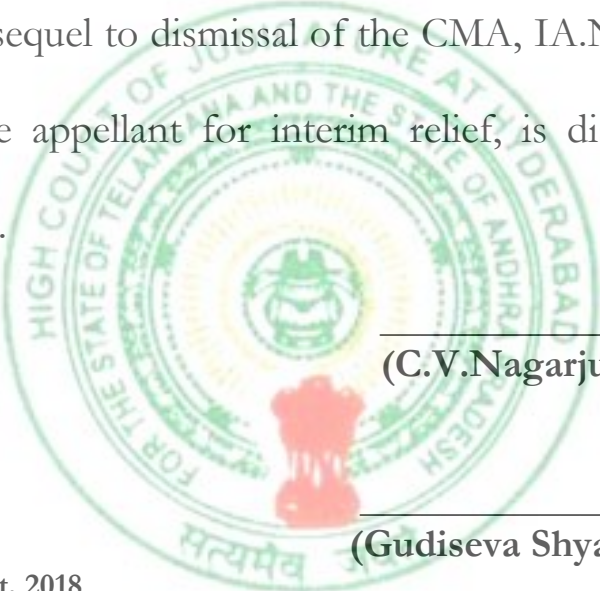
After hearing the learned Counsel for the appellant and carefully considering the reasons assigned by the lower Court, we are of the opinion that lower Court has rightly allowed the Application filed by the respondents for injunction assigning weighty reasons as noted herein before. The appellant has not produced any *prima facie* proof of the alleged settlement made by her father towards Pasupu Kumkuma in the year 2005. The very fact that she failed to produce any evidence to show her possession over the plaint schedule properties till the year 2014 also *prima facie* goes against her case that the same were settled in her favour in the year 2005. As rightly observed by the lower Court, some stray copies of electrical and house tax receipts produced by the appellant would be outweighed by the case of the respondents, which is supported by registered settlement

deeds and certain other documents showing their possession over the plaint schedule properties.

In the light of the above, we do not find any reason to interfere with the order of the lower Court.

This Civil Miscellaneous Appeal is, accordingly, dismissed.

As a sequel to dismissal of the CMA, IA.No.1 of 2018, filed by the appellant for interim relief, is disposed of as infructuous.



(C.V.Nagarjuna Reddy, J)

(Gudiseva Shyam Prasad, J)

Dt: 14th August, 2018
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