

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

C.M.A.No.727 of 2017

JUDGMENT:

1 This appeal is filed under Order 43 Rule 1 of CPC challenging the order dated 18.04.2017 passed in I.A.No.9 of 2017 in A.S.No.20 of 2017 on the file of the Court of the VIII Additional District Judge, Chittoor.

2 Heard the learned counsel for both parties.

3 A perusal of the record reveals that the respondent filed O.S.No.301 of 2011 on the file of the Court of the II Additional Junior Civil Judge, Chittoor against the petitioners seeking perpetual injunction in respect of the suit schedule property. After full fledged trial, the trial Court dismissed the suit. Feeling aggrieved by the judgment and decree dated 21.12.2016 passed in O.S.No.301 of 2011, the unsuccessful plaintiff/respondent preferred A.S.No.20 of 2017 on the file of the court of the VIII Additional District Judge, Chittoor. Along with the appeal, the respondent filed I.A.No.9 of 2017 under Order XXXIX Rules 1 and 2 seeking interim injunction. The first appellate court, after hearing both sides, allowed the petition. Hence the present Civil Miscellaneous Appeal.

4 At the time of arguments, the learned counsel for the respondent submitted that during the pendnecy of the suit, the trial Court granted interim injunction in favour of the respondent which was in force till disposal of the suit. The First appellate Court, after taking into consideration the material

available on record, granted interim injunction in favour of the respondent.

5 If no interim order is granted in favour of the respondent during the pendency of the appeal, the very purpose of filing of the appeal will be defeated or frustrated. Even if interim injunction is granted in favour of the respondent no prejudice will be caused to the petitioners in view of granting of interim order in favour of the respondent during the pendency of the suit. I am in complete agreement with the findings recorded by the First Appellate Court.

6 Both counsel submitted that the First Appellate Court may be directed to dispose of the appeal as expeditiously as possible.

7 In the result, the Civil Miscellaneous Appeal is dismissed. However, the learned VIII Additional District Judge, Chittoor is hereby directed to dispose of A.S.No.9 of 2017 as expeditiously as possible, at any rate, within a period of three months from the date of receipt of a copy of this order. No order as to costs. As a sequel, miscellaneous petitions if any pending in this CMA shall stand dismissed.

T. SUNIL CHOWDARY, J.

Date: 24th July, 2018
Kvsn