

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

CMA.No.447 of 2018

Date:10.10.2018

Between.

M.John Madhukar,
S/o Late M.Anantha Rao
and two others.

.....Appellants

And.

The State of Telangana,
reptd by its Principal Secretary,
Revenue Department, Hyderabad
and another.

.....Respondents

Counsel for the appellants: Mr. M.A.K.Mukheed

Counsel for the respondents: GP for Arbitration (TS)

The Court made the following:

JUDGMENT: (*per Hon'ble Sri Justice C.V.Nagarjuna Reddy*)

This Civil Miscellaneous Appeal is filed against order, dated 19.02.2018, in I.A.No.1814 of 2017 in O.S.No.1014 of 2017 on the file of the II Additional Chief Judge, City Civil Court, Hyderabad, whereby he has declined to grant interim injunction in favour of the appellants against the respondents from illegally dispossessing them from the suit schedule property.

We have heard Mr. M.A.K.Mukheed, learned counsel for the appellants, and the learned Government Pleader for Arbitration (Telangana). We have also considered the respective pleadings of both the parties.

It is not in dispute that the suit schedule property has been in possession of appellant Nos.1 and 2 in pursuance of a registered sale deed, dated 09.4.1974 and, that the said appellants have also obtained permission for construction thereon and entered into a development agreement with appellant No.3. The respondents—the State and its functionary are claiming title over seventy five square yards forming part of the suit schedule property on the ground that in the RSR, the same is shown as ‘G-Mental Hospital’. As the said suit is filed for declaration of title and permanent injunction, the issue regarding title is required to be adjudicated in the suit itself. However, considering the long standing possession of appellant Nos.1 and 2, in pursuance of a registered sale deed, and the further fact that they have obtained building permission and also entered

into a development agreement with appellant No.3, if their interests are not protected pending the suit, they are likely to suffer irreparable injury. Considering the fact that the respondents claimed only 75 square yards of land out of 200 square yards, which constitutes approximately 40% of the suit schedule property, it would be in the interests of justice that the appellants are permitted to develop the property and the share of appellant No.3-developer is permitted to be sold while directing that the shares of appellant Nos.1 and 2 shall not be sold or any third party interests shall not be created therein.

Accordingly, the Civil Miscellaneous Appeal is allowed by granting injunction as prayed for, subject to the condition that appellant Nos.1 and 2 shall not sell their shares of the developed property while permitting the developer to sell his share pending the afore-mentioned suit.

As a sequel to allowing of the Civil Miscellaneous Appeal, I.A.No.1 of 2018 filed for interim relief is disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

10th October, 2018

DR