

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

C.R.P.No.2883 of 2018

ORDER:

Aggrieved by the order passed by the first appellate Court granting interim suspension of a permanent injunction, the plaintiff has come up with the above revision.

2. Heard Mr. G.V.R. Choudary, learned counsel for the petitioner and Mr. D. Venkata Ramana Reddy, learned counsel for the respondents.

3. The petitioner herein filed a suit in O.S.No.268 of 2013 seeking a decree of permanent injunction restraining interference with his possession. The suit was decreed on 02.02.2018.

4. The 1st respondent herein filed a regular appeal in A.S.No.18 of 2018 for suspension of the decree. The first appellate Court allowed the interlocutory application and granted interim suspension. Therefore, the plaintiff is before me.

5. There is no dispute about the fact that the petitioner/plaintiff had the benefit of an interim order of injunction pending the suit. The suit was pending from 2013 to 2018. Eventually the suit was decreed in favour of the petitioner.

6. In cases of this nature, where the plaintiff had the benefit of interim injunction through out the pendency of the suit and also succeeded in getting a decree, the first appellate Court cannot stay such a decree. If they do that, it will tantamount to making the position of the plaintiff worse of than what was before he succeeded in the suit. The appellate Court cannot make the position of a person worse of for having succeeded in the suit.

7. therefore, the civil revision petition is allowed, the impugned order of the first appellate Court is set aside. As indicated in the impugned order, it is open to the appellate Court to dispose of the appeal expeditiously. There shall be no order as to costs.

10. As sequel, miscellaneous petitions pending in this revision, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

29th June, 2018
Js.



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