

**HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI**

CIVIL MISCELLANEOUS APPEAL No.668 of 2018

JUDGMENT: (Per Hon'ble Sri Justice Suresh Kumar Kait)

Vide the present appeal, petitioner challenged the order dated 23.02.2018 passed in I.A.No.430 of 2017 in O.S.No.18 of 2017, by the learned VI Additional District and Sessions Judge, Godavarikhani, whereby the petition filed, under Order 39 Rules 1 and 2 of the Civil Procedure Code, for grant of ad-interim injunction restraining the respondents from interfering with the suit schedule property till the disposal of the suit, was dismissed.

It is not in dispute that the respondents are in possession of the suit schedule property and had now started construction after obtaining permission from the municipal authorities. Counsel for the respondents, on instructions, has undertaken that the respondents shall not claim equity on the construction being made, if the suit filed by the appellant is decided in her favour. From the very beginning, since the respondents are in possession of the subject property, we find no illegality in the order passed by the Trial Court. We find no merit in the appeal.

The Appeal fails and is, accordingly, dismissed. However, it is made clear that the construction, if any, made shall be subject to the outcome of the suit and, if the

appellant succeeds in the suit, the respondents shall not claim any right or equity over the said construction.

Miscellaneous Petition pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

ABHINAND KUMAR SHAVILI, J

Dt:06.08.2018
usd

