

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD

CIVIL MISCELLANEOUS APPEALS Nos.278, 279 & 299 of 2017

DATE: 10-10-2018

Between:

Chalasani Indira Ramana Rao

..... APPELLANT
(in three CMAs)

AND

Balusu Narasimha Valli and 3 others

.....RESPONDENTS
(in three CMAs)

COUNSEL FOR THE APPELLANT: Sri CHALLA GUNARANJAN

COUNSEL FOR RESPONDENTS : Sri D.KODANDARAMI REDDY
(in CMA Nos.278 & 279 of 2017)

Sri N.NAGARAJA KAPOOR
(in CMA No.299 of 2017)

THE COURT MADE THE FOLLOWING:



THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
&
THE HON'BLE SRI JUSTICE GUDI SEVA SHYAM PRASAD
CIVIL MISCELLANEOUS APPEALS Nos.278, 279 & 299 of 2017

COMMON JUDGMENT: (Per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

These three Civil Miscellaneous Appeals arise out of separate but similar orders passed by the XI Additional District Judge, Krishna, Gudivada, whereby he has dismissed three interlocutory applications, viz., I.A.Nos.648 & 691 of 2016, which were filed for injunction restraining the respondents from alienating Item Nos.4 and 5 to 8 of the suit schedule properties respectively, and I.A.No.203 of 2016, which was filed for appointment of a receiver in O.S.No.21 of 2016.

Since the parties in these three Civil Miscellaneous Appeals are common, they are heard and being disposed of together.

We have heard Mr.Challa Gunaranjan, learned counsel, appearing for the appellant in all these appeals, Mr.D.Kodandarami Reddy, learned counsel, appearing for the respondents in CMA Nos.278 & 279 of 2017 and Mr.N.Nagaraja Kapoor, learned counsel, appearing for the respondents in CMA No.299 of 2017.

The brief facts of the case are that one Chalasani Venkata Satyanarayana Rao was the head of the family. He had four sons and one daughter. The two elder sons, viz., Venkata Rama Mohanarao and Kannan Gopal pre-deceased their father. Chalasani Venkata Satyanarayana Rao died leaving behind the families of the two deceased sons and the remaining two sons and daughter. One of the sons filed O.S.No.21 of 2016 seeking partition of the suit schedule properties into

four shares and allotment of one such share to him. Along with the suit, he has filed the aforementioned interlocutory applications for the reliefs, referred to above. He has pleaded that after the death of Kannan Gopal, his wife has got her claim settled and left the family and that respondent No.2, the wife of one of the sons Ramamohanarao and respondent No.4, another son, have claimed that the said deceased Satyanarayana Rao has executed a registered Will, dated 10.12.2008 and an unregistered codicil, dated 12.03.2009 and that under those two instruments, the plaintiff son, respondent No.1-daughter have been completely denied any share in the properties, which raised serious suspicion over the genuineness of the Will and Codicil. The respondents stiffly resisted the claim of the appellant/plaintiff based on the registered Will and unregistered Codicil. On appreciation of the documentary evidence and having discussed the elements of balance of convenience and irreparable injury, the Court below has dismissed all the three interlocutory applications.

After hearing the learned counsel of the respective parties, we are of the opinion that as the very genuineness of the registered Will and unregistered Codicil are in serious dispute, if the respondents sell away all the properties which are stated to be highly valuable, the appellant may suffer irreparable loss, as he may not be able to recover his part of share in the event of his success in the suit. The learned counsel for the respondents submitted that as Item Nos.4 to 8 are situated within the CRDA area, they have obtained permission for its development and sale after converting the property into house sites.

In view of the facts and circumstances of the case, while the respondents are permitted to develop the property as per the CRDA

approval, they are however restrained from alienating or creating any third party interest over 1/4th share of Items 4 to 8 of the suit schedule properties, pending disposal of the suit.

In the result, CMA Nos.278 & 279 of 2017 are partly allowed to the extent indicated above. In view of injunction granted by this court in respect of items Nos.4 to 8, we do not find any reason to appoint a receiver. Hence, CMA No.299 of 2017 is dismissed. No order as to costs.

As a sequel to disposal of the appeals, I.A.No.1 of 2017 filed in these three appeals for interim relief, I.A.No.1 of 2018 filed in CMA Nos.278 & 279 of 2017 for permission to file some material papers, and I.A.No.5 of 2018 filed in CMA No.299 of 2017 seeking punishment for violating the interim order, shall stand disposed of as infructuous.



C.V.NAGARJUNA REDDY,J

GUDI SEVA SHYAM PRASAD,J

Date: 10.10.2018
Dsr