

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.M.A.No.610 of 2018

JUDGMENT:

This appeal is filed under Order 43 Rule 1(c) read with Section 144 CPC assailing the order dated 01.05.2018 in I.A.No.1446 of 2017 in O.S.No.1340 of 2017 on the file of the Court of XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.

2. Heard the learned counsel appearing for both parties.

3. A perusal of the record reveals that the appellant filed O.S.No.1340 of 2017 against the respondents seeking perpetual injunction in respect of an extent of Ac.2.22 guntas in Sy.No.117/Aa()/1 of Ankushapur village, Gatkesar Mandal, Medchal District. Along with the suit, the appellant filed I.A.No.1446 of 2017 under Order 39 Rules 1 and 2 CPC seeking ad-interim injunction. Initially, the trial Court granted *ex parte* injunction in favour of the appellant. After hearing both sides, the trial Court dismissed I.A.No.1446 of 2017 on merits. Hence, the present appeal.

4. At the time of arguments, both counsel submitted that the suit schedule property is an extent of Ac.2.22 guntas in Sy.No.117/Aa()/1 of Ankushapur village, Gatkesar Mandal, Medchal District. The learned counsel for the appellant submitted that the trial Court dismissed the injunction application basing on Exs.P18, P19 and P20 rectification deeds dated 23.02.2014, 23.05.2017 and 23.05.2017

respectively. It is the case of the appellant that in the original sale deed, the survey number is mentioned as '116'. By virtue of Exs.P18, P19 and P20 rectification deeds, the survey number in the sale deeds altered from '116' to '117'. Learned counsel for the respondent submitted that even if these three rectification deeds are ignored, still the appellant is not entitled for injunction. The learned counsel for the appellant also submitted that the trial Court may be directed to pass orders afresh after excluding Exs.P18, P19 and P20.

5. In view of the submissions made by both the counsel, this Court is not inclined to express any opinion touching the merits of the main case. Hence, this Court is of a considered view that it is a fit case to set aside the orders dated 01.05.2018 in I.A.No.1446 of 2017 in O.S.No.1340 of 2017 and remand the matter to trial Court for fresh disposal.

6. In the result, the C.M.A. is allowed setting aside the orders dated 01.05.2018 in I.A.No.1446 of 2017 in O.S.No.1340 of 2017 on the file of the Court of XIII Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar. The trial Court is hereby directed to dispose of I.A.No.1446 of 2017 on merits after excluding Exs.P18 to P20. There shall be no order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

T.SUNIL CHOWDARY, J

3rd July 2018
Rns

