

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

CMA.No.846 of 2018

Date:10.10.2018

Between.

Guranji Satyanarayana,
S/o Late Rama Singh

.....Appellant

And.

Dwarapu Velangini George
Samual, S/o Benjimen

.....Respondent

Counsel for the appellant: Ms. Nimmagadda Revathi

Counsel for the respondent: Mr. K.B.Ramanna Dora

The Court made the following:

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

This Civil Miscellaneous Appeal is filed by the plaintiff in O.S.No.384 of 2016 partly aggrieved by order, dated 26.10.2017, in I.A.No.669 of 2016 on the file of the II Additional District Judge, Visakhapatnam, to the extent of denial of injunction in respect of ground and first floors of suit 'A' schedule property.

We have heard Ms. Nimmagadda Revathi, learned counsel for the appellant, and Mr. K.B.Ramanna Dora, learned counsel for the respondent.

The appellant filed the afore-mentioned suit for declaration of his title in respect of the suit schedule properties comprising 'A' and 'B' schedules, for permanent injunction in respect of A-schedule property and for recovery of possession in respect of B-schedule property. Along with the said suit, he has filed I.A.No.669 of 2016 for temporary injunction restraining the respondent from interfering with his possession and enjoyment of suit 'A' schedule property.

The respondent filed a counter-affidavit, wherein he has relied upon Ex.R-1-Registered Will, dated 22.3.2013, executed by the appellant-wife. The Court below, on appreciation of documentary evidence adduced by both parties, granted injunction in respect of second floor of suit 'A' schedule property, which is in personal occupation of the appellant, and denied injunction in respect of the other two floors on the premise that tenants inducted by the respondent were in occupation of the said floors.

Learned counsel for the appellant has submitted that the tenants in occupation of the ground and first floors were inducted by the appellant. However, no documentary evidence was produced by the appellant in support of this plea. In our opinion, in the absence of any such evidence, the Court below is justified in confining injunction only to the second floor of suit 'A' schedule property, which is in personal occupation of the appellant.

Learned counsel for the appellant submitted that if injunction is not granted in respect of the ground and first floors, the respondent may deny the amenities for the second floor. As no such plea was raised before the Court below, it is not appropriate for this Court to make any observations in that regard. If the appellant is denied any amenities for his convenient enjoyment of the second floor of suit 'A' schedule property, he is entitled to move an appropriate application before the Court below for restoration of such amenities.

Subject to the liberty given to the appellant as above, the Civil Miscellaneous Appeal is dismissed.

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

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE GUDISEVA SHYAM PRASAD

10th October, 2018

DR