

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.800 of 2018

Date:31.10.2018

Between.

Bairagoni Raju,
S/o Bakkaiah and four others.

.....Appellants

And.

Lalukotta Venkata chary,
S/o L.Narasimha Chary and
five others.

.....Respondents

Counsel for the appellants. Srinivas Rao Bodduluri

Counsel for the respondents: Mr. V.Hari Haran

for Mr. V.Sri Hari

The Court made the following:

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

This Civil Miscellaneous Appeal is filed against order, dated 04.6.2018, in I.A.No.987 of 2017 in O.S.No.1218 of 2017 on the file of the XIV Additional District Judge, Ranga Reddy District.

One of the main objections raised by the appellants/plaintiffs against the order under appeal is that the lower Court failed to mark the documents referred to by it in its order. The learned counsel for the appellants placed heavy reliance on the judgment of this Court in *R.Parijatham and Ors Vs. M.Kameshwari & Ors*¹ and submitted that in spite of the dicta laid down by this Court in the said judgment, which was rendered following an earlier Division Bench judgment in *T.Bhoopal Reddy Vs. K.R.Laxmi Bai*², the lower Court has failed to mark the documents.

A report called for from the lower Court shows that the documents which were returned on 27.3.2018 were resubmitted on 26.4.2018, the date on which the lower Court has heard the I.A.

In *R.Parijatham* (1 supra), this Court has taken note of the procedural irregularity being committed by the lower Courts in referring to and relying upon the documents without marking the same and directed the High Court on administrative side to issue Circular for marking the documents. Despite the judgments of this Court referred to above, the lower Court has committed a serious lapse of not marking the documents on which it has placed reliance.

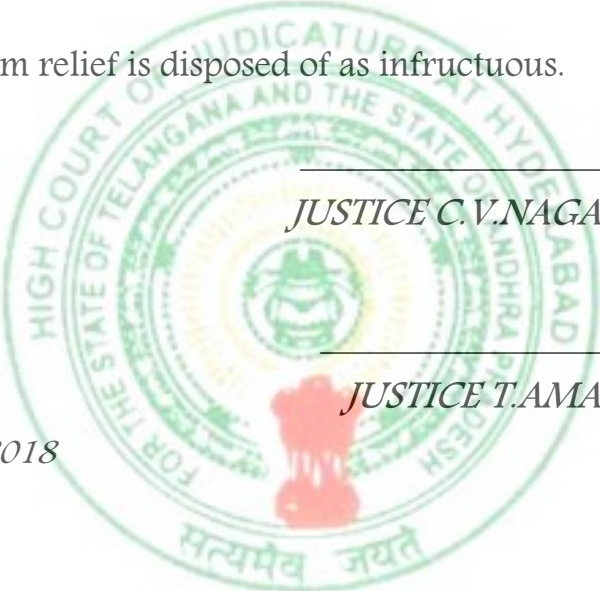
¹ 2017(5) ALD 348

² 1998 (1) ALD 770 (DB)

Therefore, on this short ground alone, the order under appeal is set aside. The lower Court is directed to mark the documents filed by both sides and dispose of the I.A. afresh after hearing the counsel for both sides within two months from the date of receipt of a copy of this order.

Subject to the above directions, the Civil Miscellaneous Appeal is allowed.

As a sequel to disposal of the Civil Miscellaneous Appeal, interim order, dated 10.10.2018, is vacated and I.A.No1 of 2018 filed for interim relief is disposed of as infructuous.



JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

31st October, 2018

DR