

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

CMA.Nos.884 and 917 of 2018

Date:22.11.2018

Between.

Mulley Ganesh,
S/o Late M.Anjaiah and two others.

.....Appellants

And.

T.Shailender Singh,
S/o Late Arjun Singh and
eight others.

.....Respondents

Counsel for the appellants: Mr. V.Ravinder Rao

Senior counsel

For Mr. M.Jayaram Reddy

Counsel for respondent No.1: Mr. Vedula Venkatramana

Senior counsel

For Mr. D.Jagadeeswara Rao

Counsel for respondent Nos.7, 8 & 9: Mr. M.S.Prasad

Senior counsel

The Court made the following:

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

These two Civil Miscellaneous Appeals arise out of common suit, but separate orders, dated 23.6.2018, passed in interlocutory applications, viz., I.A.Nos.491 of 2018 and 887 of 2017 in O.S.No.417 of 2017 on the file of the IX Additional Chief Judge, City Civil Court, Hyderabad.

As the parties and the suit are common, they are heard and being disposed of together.

Respondent No.1-plaintiff filed the afore-mentioned suit against defendant Nos.1 to 11 for a preliminary decree for partition of the suit schedule property and to allot 1/12th share to him. He has filed I.A.No.491 of 2018 for an order restraining defendant Nos.6 to 11, who include the appellants, from changing the nature of the suit schedule property and also filed I.A.No.887 of 2017 seeking to restrain the defendants from alienating, mortgaging or creating any encumbrance over the suit schedule property. By separate orders, the lower Court has allowed both the said I.As. Feeling aggrieved by the said orders, defendant Nos.9 to 11 filed the present Civil Miscellaneous Appeals.

We have heard Mr. V.Ravinder Rao, the learned senior counsel appearing for the appellants, and Mr. Vedula Venkataramana, the learned senior counsel appearing for respondent No.1-plaintiff.

The admitted facts of the case are that respondent Nos.2 to 6-defendant Nos.1 to 5 are the family members of respondent No.1-plaintiff and defendant Nos.6 to 11, who include the appellants, are the outsiders. Respondent No.1 along with respondent Nos.2 to 6 filed L.G.C.No.45 of 2011 and they have also filed I.As for reliefs similar to that sought in the aforementioned I.As filed in O.S.No.417 of 2017. No orders were passed on those applications, and later, with the abolition of the Special Court under the A.P. Land Grabbing (Prohibition) Act at Hyderabad, the case was transferred to the Court of the III Additional Chief Judge, City Civil Court, Hyderabad and re-numbered as LGOP.No.766 of 2016, which is stated to be pending.

Be that as it may, it is the pleaded case of respondent No.1-plaintiff that his great grandfather-T.Gunnu Singh died intestate and therefore, he has succeeded to the properties belonging to his great grandfather. He has further pleaded that Ex.P-12-the purported sale deed, dated 26.10.1964, executed by Gunnu Singh in favour of one Mulley Veeraiah, the grand father of the appellants, is a rank forgery as the former died on 28.7.1964 itself.

Before the lower Court, respondent Nos.2 to 6 herein-defendant Nos.1 to 5 remained *ex parte*. Defendant Nos.6 to 11, who include the appellants, have separately contested the said

applications. The lower Court allowed the said applications by separate orders. Feeling aggrieved by the said orders, defendant Nos.9 to 11 have filed these Appeals.

In support of their case, the appellants have strongly relied upon the Ex.R-54-order, vide proceedings No.E4/9633/66, dated 10.10.1966, passed by the Joint Collector, Hyderabad District and Ex.R-56-order, dated 07.8.1970, of this Court in Civil Revision Petition No.890 of 1969. Relying upon the said orders, Mr. V.Ravinder Rao, learned senior counsel, submitted that as late as the year 1966, Gunnu Singh, the great grandfather of respondent No.1-plaintiff, and Mulley Veeraiah, the grandfather of the appellants, in whose favour a registered sale deed was executed by Gunnu Singh during his life time on 26.10.1964, have filed an Appeal before the Joint Collector Hyderabad District, under Section-90 of the Hyderabad Tenancy and Agricultural Land Act, 1950, against the order, dated 27.8.1966, of the Tahsildar passed in favour of one Thota Sayanna; that the said appeal was disposed of on 10.10.1966 in favour of the great grandfather of respondent No.1-plaintiff and the grandfather of the appellants; and that the said order was confirmed by this Court by order, dated 07.8.1970, in Civil Revision Petition No.890 of 1969, filed by Thota Sayanna and two others, vide Ex.R-56.

It is to be noted that the lower Court has mainly relied upon Ex.P-4-the purported Death Certificate relating to T.Gunnu Singh-the great grandfather of respondent No.1-plaintiff showing that he died on 28.7.1964.

Mr. Vedula Venkataramana, the learned senior counsel, has fairly admitted that except Ex.P-4, no other consideration weighed with the lower Court in granting the injunction orders in favour of respondent No.1. However, a perusal of the impugned orders of the lower Court show that it failed to take into consideration Exs.R-54 and 56 which, *prima facie*, show that Gunnu Singh was alive at least till 10.10.1966, on which date the Joint Collector, Hyderabad District, has passed order in the Appeal. No doubt, in Ex.R-56-Order, dated 07.8.1970, passed by this Court in Civil Revision Petition No.890 of 1969, Gunnu Singh was shown to have died. It, thus, *prima facie* appears that Gunnu Singh was very much alive when the appeal was disposed of by the Joint Collector under Ex.R-54 and he might have died during the interregnum period after the disposal of the Appeal by the Joint Collector and before the disposal of the Civil Revision Petition by this Court. In the light of these facts, we are of the opinion that the lower Court has committed a serious error in accepting Ex.P-4 on its face value and doubted the genuineness of Ex.P-12. Having regard to the fact that Ex.P-12 is a registered sale deed executed by Gunnu

Singh in favour of Mulley Veeraiah—the grandfather of the appellants, *prima facie*, the latter have become the true owners and therefore, no injunction could be granted against them.

For the afore-mentioned reasons, both the Civil Miscellaneous Appeals are allowed and the orders under appeal are set aside. It is, however, made clear that the observations made in this order shall not influence the lower Court while disposing of the afore-mentioned suit and the alienations and alteration of the nature of the suit schedule property, if any, made shall be subject to the result of pending suit.

As a sequel to allowing of the Civil Miscellaneous Appeals, I.A.No.2 of 2018 in CMA.No.884 of 2018 and I.A.No.1 of 2018 in CMA.No.917 of 2018 filed by the appellants for interim relief are disposed of as infructuous.

JUSTICE C.V.NAGARJUNA REDDY

JUSTICE T.AMARNATH GOUD

22nd November, 2018

dr