

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

C.M.A.No.824 of 2018

Date:23.08.2018

Between.

Chigurupalli Tirumala,
W/o Ch.Janki Rao and
five others.

.....Appellants

And.

Sanapala Satyavathi,
W/o Late Srinivasam
and four others.

....Respondents

Counsel for the appellants. Mr. K.Ratnam



The Court made the following:

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

This Civil Miscellaneous Appeal arises out of common order, dated 01.5.2018, to the extent it pertains to I.A.No.1444 of 2016 in O.S.No.429 of 2016 on the file of the VII Additional District Judge (Fast Track Court), Visakhapatnam. The appellants have filed the said suit for partition and separate possession of the plaint schedule property into five equal shares and to allot three shares equally to them and two shares to defendant Nos.2 and 3 equally.

The appellants have filed I.A.No.1444 of 2016 in the said suit seeking injunction against respondent No.4 restraining him from raising construction over item No.4 of the plaint schedule property. They have also filed I.A.No.1445 of 2016 against respondent Nos.1 to 3 restraining them from alienating item Nos.2 to 4 of the plaint schedule property. By the aforementioned common order, the Court below has allowed I.A.No.1445 of 2016 and dismissed I.A.No.1444 of 2016. Feeling aggrieved by the said order to the extent of dismissal of I.A.No.1444 of 2016, the unsuccessful plaintiffs/applicants before the lower Court filed this appeal.

After hearing Mr. K.Ratnam, learned counsel for the appellants, we are of the opinion that this appeal is devoid of any merit. Admittedly, the plaint 'A' schedule property consists

of item Nos.1 to 4 comprising Ac.0.75 cents, Ac.0.34 cents, 80 square yards and 103 square yards, respectively. Respondent No.4 has claimed to have purchased item No.4 of the suit schedule property from respondent Nos.1 to 3. As the Court below has restrained respondent Nos.1 to 3 from alienating the plaint schedule property, the interests of the appellants have been protected as, undisputedly, even in the event of decree being passed in their favour, their shares could be worked out from item Nos.1 to 3 of the suit schedule property. Even otherwise, mere construction on item No.4 of the plaint schedule property by respondent No.4 would not cause any irreparable injury to the appellants as, the Court below can always work out equities in favour of the appellants in the event of their success in the suit.

In the above view of the matter, we do not find any merit in the Civil Miscellaneous Appeal and the same is, accordingly, 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

23rd August, 2018

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