

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

C.M.A.No.866 of 2018

JUDGMENT:

This appeal is filed under Order 43 Rule 1 CPC assailing the order dated 17.04.2018 passed in I.A.No.96 of 2018 in O.S.No.206 of 2018 on the file of the Court of XVIII Additional Senior Civil Judge Court, City Civil Court, Hyderabad.

2. Heard the learned counsel for the appellant and perused the material on record.

3. A perusal of the record reveals that the first respondent filed O.S.No.206 of 2018 on the file of the Court of XVIII Additional Senior Civil Judge, City Civil Court, Hyderabad, against the appellant for perpetual injunction restraining him from interfering with the suit schedule property. Along with the suit, the first respondent filed I.A.No.96 of 2018 under Order XXXIX Rules 1 and 2 CPC seeking interim injunction. The petitioner filed counter *inter alia* contending that the suit filed by the first respondent itself is not maintainable, therefore, the injunction petition is also not maintainable. The trial Court, after affording reasonable opportunity to both parties, arrived at a conclusion that the first respondent is entitled to ad-interim injunction and accordingly allowed the petition. Hence, the appeal.

5. Learned counsel for the appellant submitted that the trial Court without considering the material available on record, granted interim injunction in favour of the first respondent. He further submitted that the findings recorded by the trial Court are not sustainable, hence, it is a fit case to allow the appeal.

6. Now, the point that arises for consideration in this appeal is: Whether there are any grounds to set aside the impugned order?

7. The first respondent is the tenant of the second respondent. During pendency of the tenancy, the appellant purchased the suit schedule property from the second respondent. The appellant filed O.S.No.555 of 2018 on the file of the Court of XVIII Senior Civil Judge, City Civil Court, Hyderabad, against the first respondent for eviction and recovery of possession. A perusal of the record reveals that during pendency of the suit, the appellant filed I.A.No.97 of 2018 before the trial Court to direct the first respondent to deposit the rents. A perusal of the record *prima facie* reveals that the first respondent has been in possession and enjoyment of the suit schedule property as a tenant. It is needless to say that a landlord is not entitled to evict the tenant without following due process. It is the case of the first respondent that the petitioner is making hectic attempts to evict the first respondent. A person, who approached the Court seeking interim injunction has to establish *prima facie* case, balance of convenience and irreparable loss likely to be caused. It is not in dispute that the first respondent is in possession and enjoyment of the suit schedule property as a tenant. The petitioner prove *prima facie* case and balance of convenience is also in his favour. If no injunction is granted in favour of the first respondent, it may cause untold hardship when compared to the petitioner. The trial Court after taking into consideration the dural relationship of landlord and tenant between the appellant and the first respondent, granted interim injunction in favour of the first respondent. The trial Court

assigned reasons much less cogent and valid reasons to its findings. I am fully endorsing the findings recorded by the trial Court. There are no grounds much less valid grounds to interfere with the findings recorded by the trial Court. Therefore, it is not a fit case to allow the appeal and the same is liable to be dismissed.

8. Accordingly, the C.M.A. is dismissed. As a sequel, Miscellaneous Petitions, if any, pending in this appeal shall stand closed.

T.SUNIL CHOWDARY, J

29th July 2018,
Rns

