

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.931 of 2018

JUDGMENT:

This appeal is filed under Order 43 Rule 1 CPC assailing the order dated 20.07.2018 passed in I.A.No.1129 of 2018 in O.S.No.71 of 2018 on the file of the Court of I Additional District Judge, Kadapa.

2. A perusal of the record reveals that the respondent filed a suit against the appellant for partition of the suit 'C' schedule property into two equal shares and to allot one such share to him. Along with the suit, the respondent filed I.A.No.1129 of 2018 under Order 39 Rules 1 and 2 CPC seeking interim injunction directing the appellant-defendant not to alienate the suit 'C' schedule property. The trial Court, by order dated 20.7.2017, granted *ad* interim injunction in favour of the respondent. Hence, the appeal.

3. At the time of arguments, learned counsel for the appellant submitted that the appellant has not filed any counter before the trial Court. He further submitted that the suit itself is not maintainable under law. He further submitted that the respondent-plaintiff has no right whatsoever over the 'C' schedule property.

4. A perusal of the record reveals that the order under challenge is only an *ad* interim injunction. The record further reveals that the appellant did not file counter. In such circumstances, if this Court expresses any opinion with regard to the merits of the main case, it may cause prejudice to one of the parties to the proceedings.

5. Taking into consideration the facts and circumstances of the case, this Court is of a considered view that it is a fit case to direct the trial Court to dispose of I.A.No.1129 of 2018 as expeditiously as possible.

6. Hence, the Civil Miscellaneous Appeal is disposed of directing the trial Court to dispose of I.A.No.1129 of 2018 in O.S.No.71 of 2018 on merits as expeditiously as possible, preferably, within a period of three (3) weeks from the date of filing of the counter by the appellant. As a sequel, miscellaneous petitions, if any, pending in this appeal shall stand closed.

Dt:19.09.2018

Note:

Issue C.C. by 24.09.2018
B/o.Rns

T.SUNIL CHOWDARY, J

