

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL MISCELLANEOUS APPEAL No.1386 of 2017

JUDGMENT:

This appeal is filed under Order XLIII Rule 1(r) C.P.C. assailing the order dated 06.12.2017 passed in I.A.No.406 of 2016 in O.S.No.22 of 2016 on the file of the Court of X Additional District and Sessions Judge, Visakhapatnam at Anakapalle.

2. Heard the learned counsel for both parties.

3. A perusal of the record reveals that respondent Nos.1 to 8 have filed O.S.No.22 of 2016 against the petitioners and respondent No.9 seeking perpetual injunction in respect of the suit schedule property. Along with the suit, respondent Nos.1 to 8 have filed I.A.No.406 of 2016, under Order XXXIX Rules 1 and 2 C.P.C., seeking temporary injunction. The trial Court, after affording a reasonable opportunity to both parties, allowed the said interlocutory application by granting perpetual injunction in favour of respondent Nos.1 to 8. Hence, the appeal.

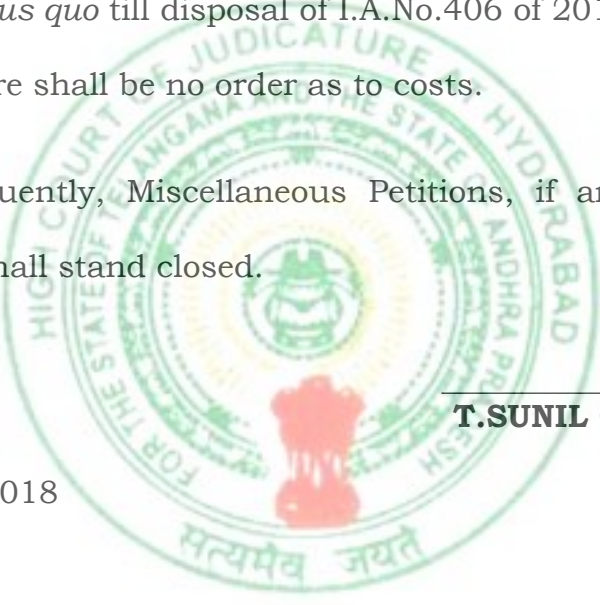
4. At the time of arguments, learned counsel for the petitioners submitted that the petitioners have filed as many as 41 documents to substantiate their case. In the order, it is mentioned that the petitioners filed the documents. For one reason or other, the documents were not marked.

5. In view of the submission made by the learned counsel for both parties, this Court is of the considered view that it is a fit case to set aside the order dated 06.12.2017 passed in I.A.No.406 of

2016 in O.S.No.22 of 2016 and remand the matter to the trial Court.

6. Accordingly, the Civil Miscellaneous Appeal is allowed setting aside the order dated 06.12.2017 passed in I.A.No.406 of 2016 in O.S.No.22 of 2016 on the file of the Court of X Additional District and Sessions Judge, Visakhapatnam at Anakapalle and remanding the matter to the trial Court. The trial Court is hereby directed to mark the documents filed by the petitioners in accordance with law and pass orders on merits. Both the parties are directed to maintain *status quo* till disposal of I.A.No.406 of 2016 in O.S.No.22 of 2016. There shall be no order as to costs.

7. Consequently, Miscellaneous Petitions, if any, pending in this Appeal shall stand closed.



T.SUNIL CHOWDARY, J

Date: 09.07.2018
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