

**THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO  
AND  
THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**CMA.No.316 OF 2016**

**ORDER:** *(Per the Hon'ble Sri Justice M.S.Ramachandra Rao)*

1. This Appeal is filed challenging the order dt.01.02.2016 in I.A.No.505 of 2015 in O.S.No.1113 of 2015 of the XIV Additional District & Sessions Judge, Ranga Reddy District at L.B.Nagar, Hyderabad dismissing the application for temporary injunction filed by the appellant/plaintiff to restrain the respondents from alienating the suit schedule property pending suit.

2. While it is the contention of the 1<sup>st</sup> appellant that the plaint schedule properties are joint properties, it is the contention of the 1<sup>st</sup> respondent that there was a prior partition.

3. Before the Court below Exs.P1 to P28 were marked by the appellants, while the respondents marked Exs.R1 to R55.

4. The Court below dismissed the IA.No.505 of 2015 relying on the circumstance that (i) the 1<sup>st</sup> appellant himself executed a Gift Deed in respect of one of the items of the suit schedule properties on 04.09.2015(Ex.P2), and (ii) Exs.R21 to R55 which indicated that specific portions of the suit schedule properties were mutated in the individual names of the petitioners, 1<sup>st</sup> respondent and 2<sup>nd</sup> respondent in the revenue record apart from the family members of the 1<sup>st</sup> respondent. It therefore *prima facie* concluded that there was a prior partition and held that the 1<sup>st</sup> appellant suppressed these facts and filed the suit and therefore he was not entitled to injunction.

5. Assailing the same, this Appeal is filed.

6. Though counsel for the appellants sought to contend that there was no prior partition as was contended by the 1<sup>st</sup> respondent and that the Court below misread the evidence on record and came to the wrong conclusion, he could not explain how the 1<sup>st</sup> appellant himself could have gifted a portion of survey No.586, which is a part of the plaint schedule properties, to his two sons on 04.09.2015 under Ex.P2, if there was no prior partition as it could not have been his clients' exclusive property.

7. In our opinion, this circumstance as well as Exs.R1 to R55 *prima facie* lead to the conclusion that there was a prior partition among the appellants, 1<sup>st</sup> respondent & 2<sup>nd</sup> respondent, and the Court below did not commit any error of fact or law in refusing the interim injunction sought by the 1<sup>st</sup> appellant.

8. For the aforesaid reasons, we find no merit in this Civil Miscellaneous Appeal and it is accordingly dismissed. No order as to costs.

9. Consequently, miscellaneous petitions pending if any shall stand dismissed.

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**M.S. RAMACHANDRA RAO, J**

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**T.VINOD KUMAR, J**

30<sup>th</sup> August, 2019.

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