

**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**Interlocutory Application No.2 of 2019**

**in**

**Civil Miscellaneous Appeal No.240 of 2019**

**and**

**Civil Miscellaneous Appeal No.240 of 2019**

**COMMON ORDER :**

Heard the counsel for appellants, and counsel for respondents nos.1 to 9. The other respondents are shown to be not necessary parties.

**2.** This Civil Miscellaneous Appeal is filed challenging the injunction order dt.28.01.2019 passed in Interlocutory Application No.91 of 2019 in Original Suit No.68 of 2019 on the file of the II Additional District and Sessions Judge, Ranga Reddy District, at L.B. Nagar, granting *ex parte ad interim injunction* against the appellants not to alienate the suit schedule property till 22.02.2019.

**3.** On 25.03.2019, this Court in Interlocutory Application No.1 of 2019 in Civil Miscellaneous Appeal No.240 of 2019 suspended the said order.

**4.** Thereafter, Interlocutory Application No.2 of 2019 is filed to vacate the order dt.25.03.2019 passed in Interlocutory Application No.1 of 2019 in Civil Miscellaneous Appeal No.240 of 2019.

**5.** A reading of the impugned order shows that the Court below has not recorded any reasons for passing the said order.

**6.** In **Shiv Kumar Chadha vs. Municipal Corporation of Delhi**<sup>1</sup>, the Supreme Court observed :

*“Whenever a court considers it necessary in the facts and circumstances of a particular case to pass an order of injunction without notice to other side, it must record the reasons for doing so and should take into consideration, while passing an order of injunction, all relevant facts including as to how the object of granting injunction itself shall be defeated if an ex parte order is not passed. But any such ex parte order should be in force up to a particular date before which the plaintiff should be required to serve the notice on the defendant concerned.”*

**7.** Thus, it is mandatory on the part of the Court below to assign reasons while it is granting an *ad interim ex parte temporary injunction*.

**8.** Since in the instant case, the Court below failed to do so, the Civil Miscellaneous Appeal is allowed.

**9.** The order dt.28.01.2019 passed in Interlocutory Application No.91 of 2019 in Original Suit No.68 of 2019 on the file of the II Additional District and Sessions Judge, Ranga Reddy District, at L.B. Nagar, granting *ex parte ad interim injunction* against the appellants not to alienate the suit schedule property till 22.02.2019, is set aside.

**10.** The said Interlocutory Application is remanded back to the said Court below to consider afresh after hearing appellants as well as respondents; and then pass a reasoned order in accordance with law.

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<sup>1</sup> (1993) 3 S.C.C. pg.161

**11.** The Court below shall also endeavour to decide the said Interlocutory Application preferably within one (01) month from the date of receipt of copy of the order.

**12.** Accordingly, the Civil Miscellaneous Appeal is allowed as above. No order as to costs.

**13.** Consequently, Interlocutory Application No.2 of 2019 which was filed to vacate the order dt.25.03.2019 passed in Interlocutory Application No.1 of 2019 in Civil Miscellaneous Appeal No.240 of 2019 is dismissed.

**14.** As a sequel, miscellaneous petitions pending if any in this Civil Miscellaneous Appeal, shall stand closed.

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**JUSTICE M.S.RAMACHANDRA RAO**

Date: 28.06.2019

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