

THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE P.KESHAHA RAO

CIVIL MISCELLANEOUS APPEAL NO.755 OF 2019

JUDGMENT: (per SK,J)

This appeal under Order 43 Rule 1 CPC arises out of the *ex parte* injunction order granted by the learned Judge, Commercial Court-cum-XXIV Additional Chief Judge, City Civil Court, Hyderabad (*for brevity*, 'the Commercial Court'), in I.A.No.464 of 2019 in C.O.S.No.29 of 2019. By the said order, the Commercial Court restrained the appellant herein, the defendant in the said suit, from transferring or delivering 15 units of Caterpillar 773E trucks to any third party till 16th August, 2019.

2. Be it noted that the appellant-defendant was not heard by the Commercial Court at the time of passing of the aforestated order.

3. Sri S.Niranjan Reddy, learned senior counsel appearing for Sri Avinash Desai, learned counsel for the appellant-defendant, would fairly state before this Court that the matter is coming up before the Commercial Court today and that his client has already filed its counter in the I.A.

4. Such being the situation, we are of the opinion that it would not be appropriate for us to exercise appellate jurisdiction at this stage when the trial Court has not heard both sides on merits.

5. The civil miscellaneous appeal is accordingly dismissed on this short ground. However, the Commercial Court shall take note of the provisions of Order 39 Rule 3-A CPC and endeavour to dispose of I.A.No.464 of 2019 in C.O.S.No.29 of 2019 on merits as expeditiously as possible. Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR,J

P.KESHAHA RAO,J

Date:01.08.2019
GJ/PGS

