

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

CMA.No.153 of 2017

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

Heard counsel for the appellants and Sri Resu Mahender Reddy, counsel for respondents 16 to 21.

2. This Civil Miscellaneous Appeal is filed challenging the order dt.30.01.2017 in I.A.No.898 of 2016 in OS.No.368 of 2007 of the XIV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar.

3. Appellants are plaintiffs in the above suit.

4. The 1st appellant filed the said suit against the respondents 1 to 13 for (a) declaration of their title to the plaint schedule property consisting of Ac.0-28 guntas in survey No.76 of Madinaguda Village, Serilingampally Mandal, R.R. District, (b) that a document of Sale dt.25.10.1980 in favour of the 1st respondent/1st defendant and documents in favour of respondents 2 to 13/defendants 2 to 13 are not at all binding or enforceable against her, and (c) for recovery of possession of the said property by removing the structures, etc.

5. Pending suit, there was an alienation of a portion of the plaint schedule property in favour of respondents 16 to 21 by 15th respondent under a Sale Certificate dt.13.01.2016 for non-payment of dues of M/s Adarsh Communications Private Limited

on account of mortgage of the said property made by the 14th respondent to the 15th respondent under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. Therefore, respondents 14 to 21 were impleaded by filing I.A.No.74 of 2016 on 13.10.2016.

6. Prior thereto, the sole plaintiff also died and appellants 2 to 10 have been impleaded as her legal representatives.

7. The appellants had filed an application I.A.No.898 of 2016 under Order XXXIX Rules 1 & 2 CPC seeking grant of *ad-interim* injunction against respondents 16 to 21 restraining them from proceeding with construction or changing the nature of the property or any portion thereof. It was their contention in the said application that the deceased-1st appellant had obtained the said property under a final decree passed on 06.08.2002 in O.S.No.23 of 2001 on the file of the I Additional Senior Civil Judge, Ranga Reddy District and that the said property under the said decree was allotted to her. It is their contention in the said application that respondents 16 to 21 were proceeding with construction in the property, which they had purchased under the Sale Certificate referred to above, and they should be restrained from doing so.

8. Respondents 16 to 21 contested the said application disputing the title of the deceased-1st appellant. They stated that

they were proceeding with digging of a bore-well and also pits in the property.

9. By order dt.30.01.2017, the Court below dismissed the said application. After referring to the contentions of the parties, it observed that even if any construction activities were being done by the respondents 16 to 21, such activities will be at the risk of respondents 16 to 21 and no prejudice would be caused to the petitioners. It also observed that there is no evidence adduced to show that respondents 16 to 21 are proceeding with the construction activity, and the photographs filed by the petitioners cannot be relied upon in support of their plea about said constructions.

10. Challenging the same, this Appeal is filed.

11. From the rival contentions of the parties, there appears to be a serious dispute about title to the property between the appellants and respondents 16 to 21, which requires to be gone into in the suit.

12. It is stated by counsel on both sides that trial of the suit is at an advanced stage and DW-2's evidence is being recorded.

13. In this view of the matter, at this stage, we do not wish to express any opinion on the rival contentions of the parties, as such observations may have serious affect on the claims of the parties in the suit. Therefore, we deem it appropriate to dispose

of this appeal directing the Court below to expedite the trial in the suit.

14. Accordingly, this Civil Miscellaneous Appeal is disposed of directing the Court below to dispose of the suit as early as possible, preferably within a period of six (06) months from the date of receipt of a copy of this order uninfluenced by any observations made by it in the impugned order. No order as to costs.

15. Consequently, miscellaneous petitions pending if any shall stand closed.

M.S. RAMACHANDRA RAO, J

T.VINOD KUMAR, J

27th August, 2019.

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