

HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.M.A. No.607 of 2018

JUDGMENT:

This Appeal is filed challenging the order dt.04-06-2018 in I.A.No.387 of 2018 in O.S.No.379 of 2018 of the XIV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, Hyderabad.

2. The appellants herein are defendants in the suit.
3. The respondents filed the suit against the appellants for perpetual injunction restraining the appellants from interfering with their possession and enjoyment of the A, B and C schedule properties, which according to them, exist in Sy.Nos.259, 262, 263 and 264 of Chandanagar Village, Serilingampally Mandal.
4. Written statement was filed by the appellant Nos.1, 3 and 8 denying the said contentions and stating that the land claimed by respondents is the land belonging to appellants in Sy.Nos.260 and 261. They also stated that they had filed suit O.S.No.1006 of 2012 before the XIV Additional District Judge, Ranga Reddy District at L.B. Nagar for declaration of their title to the land claimed by them in Sy.Nos.260 and 261 of the said village.
5. Along with the suit, the respondents filed I.A.No.387 of 2018 under Order 39 Rules 1 and 2 C.P.C. reiterating the contents of the

plaint, and the respondents filed counter reiterating their stand in the written statement.

6. The Court below granted temporary injunction in favour of respondents against the appellants. It rejected all the documents filed by the respondents such as plaint etc. in O.S.No.1006 of 2012 on the pretext that they are photo copies and they are inadmissible in evidence. The Court below rejected the material evidence presented by the appellants, however, it accepted the copies of sale deeds and partition deeds filed by respondents even though they are not originals.

7. Assailing the same, this Appeal is filed.

8. Learned counsel for appellants contended that the same standard of proof ought to have been applied by the Court below to both parties and if the appellants' material is discarded on the ground that they are photocopies, the material filed by the respondents also ought to be discarded because they are not originals.

9. He also contended that there are no reasons in the impugned order and that the Court below, except stating that it had perused the copies of sale deeds and partition deed apart from regularization proceedings to grant temporary injunction in favour of the respondents.

10. Though learned counsel for the respondents tried to sustain the order passed by the Court below, he did not dispute that in

Interlocutory Applications, normally trial Courts accept photocopies of documents.

11. If the Court below had any objection as to the material evidence presented by the appellants, which were photocopies, it should have informed the same to the counsel for appellants. But it cannot reject the same while looking into the documents filed by respondents which are also not originals and thus apply different standards to the respondents and to the appellants.

12. Therefore, the impugned order is set aside, and I.A.No.387 of 2018 is remitted back to the Court below to pass a fresh order after considering the material placed on record by both parties uninfluenced by any observations made by it in its order dt.04-06-2018.

13. The Civil Miscellaneous Appeal is allowed with the above directions. No costs.

14. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 20-03-2019

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