

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

C.M.A. NO.1261 OF 2018

ORDER: (per Hon'ble Sri Justice M.S. Ramachandra Rao)

This appeal is filed under Order 43 Rule 1 CPC challenging the order dt.04.09.2018 in I.A. No.788 of 2018 in O.S. No.193 of 2018 of the Special Judge for Trial of Offences under SC/ST (POA) Act-cum-V Additional District Judge, Medak at Sanga Reddy.

The appellants herein are defendants 2 and 3 in the suit.

The said suit had been filed by 1st respondent against the petitioners and respondents 2 and 4 for specific performance of an agreement of sale dt.03.10.2017 said to have been executed by the 2nd respondent in favour of the 1st respondent, and also to declare a registered sale deed dt.18.06.2018 executed by 2nd respondent in favour of the appellants to be null and void and not binding on the 1st respondent.

Pending the suit, the 1st respondent filed I.A. No.788 of 2018 under Order XXXIX Rules 1 and 2 CPC for an ad-interim injunction in favour of the 1st respondent restraining the petitioners and respondents 2 and 3 from alienating the suit schedule property to third parties pending disposal of the suit.

On 04.09.2018, an *ex parte* order of *status quo* was granted against the petitioners and respondents 2 and 3.

Assailing the same, this appeal is filed by the respondents.

Counsel for the appellants contends that no reasons are assigned in the impugned order by the Court below for granting the order of *status quo*.

The Counsel for the 1st respondent sought to support the order passed by the Court below stating that counter has already been filed in the I.A. No.788 of 2018 by the appellants, and there is no necessity to interfere with the said order.

The Supreme Court had held in **Shiv Kumar Chadha v. Municipal Corporation of Delhi**¹, that 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 factors including as to how the object of granting injunction itself shall be defeated if an *ex aprte* order is not passed.

In our considered opinion, this logic would apply to the *status quo* order passed in the instant case as were by the court below. It was the duty of the Court below to record that the 1st respondent had a *prima facie* case and balance of convenience was also in her favour and irreparable injury would be caused if the order of *status quo* is not granted.

In the absence of recording of the above factors in the impugned order, it cannot be sustained.

¹(1993) 3 SCC 161

Accordingly, this appeal is allowed; order dt. 04.09.2018 in I.A. No.788 of 2018 in O.S. No.193 of 2018 of the Special Judge for Trial of Offences under SC/ST (POA) Act-cum-V Additional District Judge, Medak at Sanga Reddy is set aside, and the said I.A. is remitted back to the Court below to consider the above factors and then decide it in accordance with law.

Miscellaneous petitions pending, if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

T. VINOD KUMAR, J

Date: 03.09.2019

MRKR

