

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD
CIVIL MISCELLANEOUS APPEAL No.54 OF 2020

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

This appeal is preferred challenging order dated 08.01.2020 in I.A.No.1517 of 2018 in O.S.No.1409 of 2018 of the XIII Additional District and Sessions Judge-cum-Commercial Court, Ranga Reddy District at L.B.Nagar, Hyderabad.

2. The appellant herein is defendant No.24 in the Court below. The said suit was filed by respondents 1 and 2 against the appellant and others for partition of the suit schedule properties and for allotment of 1/12th share to the first respondent and to respondents 3 to 14 and to set aside certain documents and for costs.

3. Pending suit, respondents 1 and 2 filed I.A.No.1517 of 2018 for grant of *ad interim* injunction restraining respondents 19 to 127 from changing the nature of the suit schedule properties at Puppalaguda Village, Rajendranagar Mandal, now Gandipet Mandal of Ranga Reddy District.

4. The Court below passed the following docket order:

“ Respondent No.24, 27 and 28 called absent even at the time of call work and also at 1:05 PM. No representation. Counter not filed inspite of several adjournments. Hence, set exparty. Respondent No.36, 53, 127. D.24, D.108, D.115 are already set exparty. Memo filed stating that they are making construction in petition schedule land. Hence, they are directed to maintain Statusquo – until further orders. For hearing, call on 27.01.2020.”

5. Challenging the same, this appeal is filed by the appellant.
6. Heard Sri Vedula Srinivas, counsel representing Sri Siddarth Pogula, learned counsel for the appellant and Sri E.Madan Mohan Rao, counsel representing Ms.P.Bhavana Rao, learned counsel for respondents 1 and 2.
7. It is the contention of the appellant that no reasons are contained in the said order and there is no finding of the Court below that respondents 1 and 2 have made out *prima facie* case, that balance of convenience is in their favour and they are entitled to any interim relief in the application.
8. The only reason assigned in the order is that a memo was filed by respondents 1 and 2 stating that the appellant and others are making construction in the property. No material even in that regard has been placed before the Court below.
9. We are of the opinion that the Court below should not have granted any interim direction without adverting to whether respondents 1 and 2 have made out a *prima facie* case for grant of interim relief and whether there is balance of convenience in their favour and irreparable injury would be caused to them if any such order is not granted to them pending disposal of the suit. Merely on the basis of a memo filed by respondents 1 and 2, such a relief ought not to have granted by the Court below.
10. Therefore, the Civil Miscellaneous Appeal is allowed; order dated 08.01.2020 in I.A.No.1517 of 2018 in O.S.No.1409 of 2018 of

the XIII Additional District and Sessions Judge-cum-Commercial Court, Ranga Reddy District at L.B.Nagar, Hyderabad, is set aside; and the said IA is remitted back to the Court below to hear all the parties on 24.02.2020 and then pass a reasoned order in accordance with law within four weeks thereafter. No costs. Miscellaneous petitions, if any, pending shall stand dismissed.

M.S.RAMACHANDRA RAO, J

Date: 06.02.2020
TJMR

T.AMARNATH GOUD, J

