

**HON'BLE SRI JUSTICE M.S. RAMACHANDRA RAO
AND
HON'BLE SRI JUSTICE T. AMARNATH GOUD**

CIVIL MISCELLANEOUS APPEAL No.1107 of 2019

JUDGMENT : (per MSR, J)

This Civil Miscellaneous Appeal is filed challenging the order and decree dt. 24.07.2019 in I.A.No.189 of 2018 in O.S.No.9 of 2018 passed by the Principal District Judge, Nalgonda, rejecting the application filed by the appellant/plaintiff for temporary injunction restraining the respondents/defendants from interfering with his possession and enjoyment over the suit schedule property.

The said suit was filed (a) to pass a decree for specific performance of an Agreement of Sale dt.21.08.2016 executed allegedly by respondent Nos.1 to 3 in favour of the appellant; (b) to declare the registered Sale Deed Nos.5165 to 5169 of 2017, all executed on 22.05.2017 by respondent Nos.1 to 3 in favour of respondent Nos.4 to 8, as sham, bogus and nominal; (c) to grant perpetual injunction; and for other reliefs. Along with the suit, I.A.No.189 of 2018 was filed by the appellant reiterating the contents of the plaint that respondent Nos.1 to 3, who are owners of the suit schedule property, had executed the said Agreement of Sale dt.21.08.2016 in his favour to sell the property for Rs.1.25 Crores, after receiving a sum of Rs.25.00 Lakhs towards advance.

Though respondent Nos.1 to 3 did not file counter, their counsel appearing before the Court below contended that the appellant had not complied with his obligations under the Agreement of Sale dt.21.08.2016. Respondent Nos.4 and 6 to 8 through their counsel filed counter affidavit contending that they had purchased the property bonafidely from respondent Nos.1 to 3 and they were in possession of the property and the Revenue records have been mutated in their name.

In the Court below, the appellant filed Exs.P-1 to P-36 and the respondents filed Exs.R-1 to R-20.

The Court below, after considering the material on record, held that the appellant did not file any material to show that the possession of the suit schedule property was delivered to him after respondent Nos.1 to 3 received part of the sale consideration. It also held that Ex.P-11 – Electricity Bills relied upon by the appellant does not show the name of the appellant, they show the names of some third parties; and, therefore, held that there is no prima-facie case made out by the appellant for grant of injunction in his favour. It accordingly dismissed the application vide order dt.24.07.2019.

Assailing the same, the present appeal is filed.

Heard learned counsel for the appellant/plaintiff and Sri Kiran Palakurthy, learned counsel appearing for respondent Nos.4, 6 and 8.

Since application filed by the appellant/plaintiff is for interim injunction restraining the respondents from interfering with his alleged peaceful possession and enjoyment over the suit schedule property pending the suit, it was incumbent on the part of the appellant to establish that he is in possession of the suit schedule property. As rightly held by the Court below, no document has been filed by the appellant evidencing delivery of possession of the suit schedule property to him by respondent Nos.1 to 3 and other documents filed by him do not establish his possession over the suit schedule property. Therefore, we do not find any error in the order passed by the Court below refusing to grant interim injunction to the appellant.

Accordingly, this Civil Miscellaneous Appeal is dismissed. No order as to costs.

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

M.S. RAMACHANDRA RAO, J

T. AMARNATH GOUD, J

22.01.2020.
Msr

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