

**HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO**

**AND**

**HONOURABLE SRI JUSTICE T.AMARNATH GOUD**

**I.A.No.1 of 2020**  
**in/and**  
**C.M.A.No. 1103 of 2019**

**JUDGMENT:** (Per Sri Justice M.S.Ramachandra Rao)

This appeal is preferred challenging the order dt.01-10-2019 in I.A.No.582 of 2014 in O.S.No.160 of 2014 of the Chairman, Motor Accidents Claims Tribunal (Judge, Family Court) at Nalgonda dismissing the application for *ad interim* injunction filed by appellants restraining the 6<sup>th</sup> respondent from alienating, transferring, encumbrance or otherwise creating any charge in favour of the third parties in respect of the suit schedule land during pendency of the suit.

2. The appellant Nos.1 and 2 are the children of 3<sup>rd</sup> respondent and 1<sup>st</sup> respondent.

3. They had filed the said suit for partition of the suit schedule property and separate possession of 1/9<sup>th</sup> share in the suit schedule property alleging that the suit schedule property is the ancestral property of the father of 1<sup>st</sup> respondent.

4. It is not in dispute that during the lifetime of the father of 1<sup>st</sup> respondent V.Shekhara Reddy, he sold the suit schedule property under an agreement of sale-cum-G.P.A. dt.27-10-2007 in favour of respondent Nos.4 and 5 and the latter again sold the property to

6<sup>th</sup> respondent on 07-02-2010 and also delivered vacant possession of the property.

5. It is the contention of respondents in the counter-affidavit to the interim injunction application I.A.No.582 of 2014 that the suit schedule property is the absolute property of V.Shekhara Reddy and they are not ancestral property. The contention of the appellants that the properties were in fact acquired by Narsi Reddy, father of V.Shekhara Reddy is explicitly denied.

6. Before the Court below, no document has been filed by the appellants to *prima facie* show that the suit schedule property is the ancestral property of the deceased V.Shekhara Reddy. Exs.P-1 to P-3 pahanis show that it stands in the name of deceased V.Shekhara Reddy.

7. When the appellants allege that the suit schedule property is the ancestral property, the burden is on them to establish the same *prima facie* and in the absence of any evidence adduced in this regard, the appellants had not made out *prima facie* case entitling them to grant the relief of temporary injunction restraining the 6<sup>th</sup> respondent from alienating the suit schedule property.

8. More so, when the 6<sup>th</sup> respondent had purchased the property almost 10 years back and has been enjoying the same since then. It would cause grave prejudice to the 6<sup>th</sup> respondent, if such order is granted.

9. On the contrary, no prejudice is caused to the appellant and the doctrine of *lis pendens* contained in Section 52 of the Transfer of Property Act, 1882 would adequately protect the interests of the appellants and any alienation which would be made by the 6<sup>th</sup> respondent pending suit would be subject to the result of the suit.

10. Though learned counsel for appellants relied upon the judgment in **Maharwal Khewaji Trust (Regd.), Faridkot Vs. Baldev Dass**<sup>1</sup>, in that case, apprehension was of making constructions in the property, and the trial Court held that the appellant in the Supreme Court had made out a *prima facie* case, but the High Court did not express any opinion. However, the Supreme Court interfered in the matter and granted relief on the ground that constructions should not be permitted and *status quo* should be maintained.

11. However, in the absence of any *prima facie* case in favour of appellants, the said judgment cannot be relied upon by the appellants.

12. I.A.No.1 of 2020 has been filed by the appellants to receive certain documents i.e. pahanies for the year 1991-92, 1995-96, 1427 Fasli apart from 1-B RoR. No valid reason is assigned why these documents were not placed before the Court below when I.A. seeking temporary injunction was pending between 2014 and October, 2019.

13. Therefore, we are not inclined to allow the said application and consider the documents now filed.

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<sup>1</sup> (2004) 8 SCC 488

14. For the aforesaid reasons, we do not find any merit in the appeal and it is accordingly dismissed. No costs.

15. Pending miscellaneous petitions, if any, shall stand closed. No costs.

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**M.S.RAMACHANDRA RAO, J**

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**T.AMARNATH GOUD**

Date: 27-01-2020

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