

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**MONDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND TWENTY ONE**

PRESENT

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL MISCELLANEOUS APPEAL NO: 150 OF 2021

Appeal Under Order 43 Rule 1 of CPC aggrieved by the Order dated 24-2-2021 in I.A.No.233 of 2021 in O.S.No.45 of 2021 on the file of the Court of the Senior Civil Judge at Nalgonda.

Between:

1. K.V.Ramakumar, S/o.Krishna Murthy, Aged about 52 years, Occ. Business, R/o. Flat No.101, Sai Laxmi residency, Road No.5, Anjeneya Nagar, Moosapet-500018.
2. Smt. K.Nagawalli, W/o.K.V.Ram Kumar, Aged about 48 years, Occ. Business, R/o. Flat No.101, Sai Laxmi residency, Road No.5, Anjeneya Nagar, Moosapet-500018.
3. Smt.M.Nalini, W/o.Venkat Rao, aged 50 Years, R/o.8-2-268/V/16 and 19//201, Banjara Hills, Road No.2, Sagar Society, Hyderabad.

...APPELLANTS/ Respondents / Defendants

AND

Rechu Ranjith Reddy, S/o.R.Manik Reddy, Aged about 40 Years, Occ. Business, R/o.2-277/15, Meerpet, Saroor Nagar, Ranga Reddy District - 500097.

...RESPONDENT/ Petitioner / Plaintiff

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim suspension of the ad-interim injunction order passed in I.A.No.233 of 2021 in O.S.No.45 of 2021 on the file of Hon'ble Senior Civil Judge, Nalgonda vide its order dt.24.02.2021 pending disposal of the above Civil Revision Petition.

Counsel for the Appellants: SRI K. RAJASHEKAR

Counsel for the Respondent: None appeared

The Court delivered the following: JUDGMENT

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL MISCELLANEOUS APPEAL No. 150 of 2021

JUDGMENT:

Questioning the order dated 24.02.2021 passed by the learned Senior Civil Judge, Nalgonda, in I.A.No.233 of 2021 in O.S.No.45 of 2021 granting *ex parte ad interim* injunction in favour of respondent/plaintiff, petitioners/defendants filed this Civil Miscellaneous Appeal.

In the light of the judgment of the Division Bench of this Court in **Innovative Pharma Surgicals v. Pigeon Medical Devices (P) Ltd¹**, wherein it is observed that the immediate remedy that is available to the opposite party in case of issuing temporary injunction without issuing notice, is under the provisions of Order 39 Rule 4 CPC, which enables the Original Court to vary or set aside or discharge the *ex parte* order, the petitioners instead of approaching this Court against the order under appeal, ought to have approached the Court below itself by way of filing counter seeking vacation of the ad interim injunction order.

In those circumstances, as it is asserted that the petitioner had already filed counter-affidavit in the aforesaid I.A., the Court below shall dispose of the aforesaid I.A. on merits, as

¹ AIR 2004 AP 310

expeditiously as possible, at any rate, within a period of four (4) weeks from today.

Subject to the above, this Civil Revision Petition is disposed of.

Miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

//TRUE COPY//

SDI-K.SRINIVASA RAO
JOINT REGISTRAR


SECTION OFFICER

To

1. The Senior Civil Judge at Nalgonda.
2. One CC to SRI. K. RAJASHEKAR, Advocate [OPUC]
3. Two CD Copies

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HIGH COURT

DATED:22/03/2021

JUDGMENT

CMA.No.150 of 2021



DISPOSING O F THE CMA

Handwritten signature and date:
25/03/2021