

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE A.SANTHOSH REDDY
CIVIL MISCELLANEOUS APPEAL No.936 OF 2013**

JUDGMENT: (Per Hon'ble Dr.SA,J)

This appeal, under Order XLIII Rule 1 of C.P.C., is filed by the appellant/plaintiff, aggrieved by the order and decree, dated 04.10.2013, passed in I.A.No.127 of 2013 in O.S.No.41 of 2013 by the learned I Additional District Judge, Khammam, whereby the subject I.A. filed by the appellant/plaintiff, under Order XXXIX Rules 1 and 2 read with Section 151 of C.P.C., seeking to grant interim injunction order restraining the respondents/defendant Nos.4 and 17 to 19 from alienating, transferring, giving lien and gifting the suit schedule 'A' and 'E' properties in favour of third parties, pending disposal of the Suit, was dismissed.

2. Heard the learned counsel for the appellant/plaintiff and perused the record.

3. There is no representation for the respondents.

4. Learned counsel for the appellant/plaintiff would submit that this Court *vide* order, dated 02.12.2013, passed in CMA.MP.No.1936 of 2013, made an observation that any alienation of the subject properties

shall be subject to the final outcome of the Suit and therefore, the appeal may be disposed of, in terms of the said order, dated 02.12.2013.

5. The order, dated 02.12.2013, passed by this Court in CMA.MP.No.1936 of 2013, reads as follows:

“The petitioner/plaintiff has filed this petition being aggrieved by the order, dated 04.10.2013, passed by the learned I Additional District Judge, Khammam, whereby, the petition filed under Order XXXIX Rules 1 and 2 of CPC, was dismissed.

The petitioner/plaintiff filed a suit for partition against the respondents and along with the suit, a petition under Order XXXIX Rules 1 and 2 of CPC was filed, wherein, the prayer of the petitioner was that the respondents be restrained from alienating the suit property.

A perusal of the impugned order shows that the trial Court *prima facie* was of the opinion that the petitioner/plaintiff and the respondent has no coparcener relationship between them.

In view of the above, we find no ground to grant interim injunction in favour of the petitioner/plaintiff. However, any alienation made shall be subject to the final outcome of the suit.”

6. Under these circumstances, this appeal is disposed of in terms of the order, dated 02.12.2013, passed by this Court in CMA.MP.No.1936 of 2013.

Miscellaneous Petitions, if any, pending in this appeal shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

A.SANTHOSH REDDY, J

Date: 26.12.2022
MD