

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

**THURSDAY, THE TWENTY EIGHTH DAY OF APRIL
TWO THOUSAND AND TWENTY TWO**

**PRESENT
THE HONOURABLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HONOURABLE SMT JUSTICE JUVVADI SRIDEVI**

C.M.A. NO: 89 OF 2022

Appeal under Order XLIII Rule 1 of CPC against the Judgment/ decree in IA No.317 of 2018 in OS No.133 of 2018 dated 18/01/2021 on the file of the Court of the V Additional District Judge, at Bhongir.

Between:.

Smt K.Swetha,

...APPELLANT

AND

Ch. Kodanda Rami Reddy

...RESPONDENT

For the Appellant : SRI MOHD MUMTAZ PASHA, Advocate

For the Respondent : SRI B.MOHAN, Advocate

The Court delivered the following: JUDGMENT

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI
CIVIL MISCELLANEOUS APPEAL No.89 OF 2022**

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

This appeal, under XLIII Rule 1 C.P.C., is filed by the appellant/plaintiff aggrieved by the order, dated 18.01.2021, passed in I.A.No.317 of 2018 in O.S.No.133 of 2018 by the learned V Additional District Judge, Bhongir, whereby, the subject application filed by the appellant/plaintiff seeking to grant *ad interim* injunction restraining the respondent/defendant, his men etc., from alienating or creating any charge over the 'B', 'C' and 'D' schedule properties or to deal with it in any manner, pending disposal of the main Suit, was dismissed.

2. Heard the learned counsel for both sides and perused the record.

3. In the course of submissions, it is brought to the notice of this Court by the learned counsel for both sides that though the appellant/plaintiff and the respondent/defendant have

;

filed documents before the Court below, those documents are not marked and appreciated by the Court below, while arriving at a conclusion with regard to the *prima facie* case and balance of convenience. Learned counsel for the appellant/plaintiff would submit that the appellant/plaintiff filed as many as 20 documents in total.

4. As seen from the material placed on record, the Court below was pleased to discuss with regard to the genuineness of the unregistered development agreement, dated 29.04.2013, by placing reliance over the expert report, dated 24.09.2018, without marking the said documents. The Court below had not dealt with the pleadings as well as the documents produced by both the sides. While dealing with an application filed under Order XXXIX Rules 1 and 2 of C.P.C., the Court is bound to mark the documents filed by both the parties, in accordance with law, and the Court is also required to appreciate those documents in arriving at a conclusion, which is patently absent in the instant case. Under these circumstances, the impugned order, dated 18.01.2021, is liable to be set aside.

5. Accordingly, the appeal is allowed by setting aside the impugned order, dated 18.01.2021, passed in I.A.No.317 of 2018 in O.S.No.133 of 2018 by the learned V Additional District Judge, Bhongir. I.A.No.317 of 2018 is restored to its file and the Court below is directed to dispose of the same afresh, in accordance with law, expeditiously, on or before 30.06.2022, after affording opportunity to both the parties. It is pertinent to state that the Court below shall mark the documents filed by both the sides, in accordance with law. It is made clear that no extension of time would be granted either to the parties or to the Court below.

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

//TRUE COPY//

Sd/-M.SANTHI VARDHANI
JOINT REGISTRAR

30
SECTION OFFICER

To

1. The V Additional District Judge, at Bhongir,
 2. One CC to Sri Mumtaz Pasha, Advocate (OPUC)
 3. One CC to Sri B.Mohan, Advocate (OPUC)
 4. Two CD Copies
 5. One Spare Copy
- Kj.





HIGH COURT

DATED:28/04/2022



JUDGMENT

CMA.No.89 of 2022

ALLOWING THE CMA
WITHOUT COSTS.

⑥ VLV
16/5/22