

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA

CIVIL MISCELLANEOUS APPEAL Nos.760 and 773 of 2014

COMMON JUDGMENT: (Per Hon'ble Dr. Justice Shameem Akther)

Since the facts of the case and the issue involved in both these appeals are identical, both these appeals are taken up together and are being disposed of by way of this common judgment.

2. CMA Nos.760 and 773 of 2014, under Order XLIII Rule 1 of CPC, are filed by the appellants/plaintiff, challenging the order of the even date, dated 14.07.2014, passed in I.A.Nos.9 and 8 of 2013 respectively in O.S.No.860 of 2013 by the XXV Additional Chief Judge, City Civil Court, Hyderabad.

3. The subject I.A.No.9 of 2013 was filed before the Court below under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC, seeking temporary injunction restraining the respondent Nos.1, 2 and 4 to 7 from changing the nature of petition 'A' and 'B' schedule properties; and the subject I.A.No.8 of 2013 was filed under Order XXXIX Rules 1 and 2 r/w Section 151 of CPC, seeking temporary injunction restraining the respondents, their men, supporters etc., from alienating or creating any charge over the petition 'A' to 'F' schedule properties.

4. Heard the learned counsel for the appellants/plaintiff and perused the record. There is no representation for the respondents/defendants.

5. As seen from the material placed on record, both subject applications were dismissed by the Court below vide impugned orders of the even date, dated 14.07.2014, on merits. Challenging the same, the plaintiff filed both these appeals before this Court on 22.08.2014. The appellants/plaintiff was also unsuccessful in getting any interim relief in both these appeals. It is brought to the notice of this Court by the learned counsel for the appellants/plaintiff that before the trial Court, PW.1 was examined and documents were marked on his behalf. It is also pertinent to state that the subject O.S.No.860 of 2013 was filed way back in the year 2013 by the appellants/plaintiff seeking partition and separate possession of suit schedule properties. Whether the appellants/plaintiff is entitled to a share in the suit schedule properties as claimed, is required to be determined in the subject suit. As adducing evidence has commenced in the subject suit, in the interest of justice, it is not appropriate for this Court to express any opinion on the subject matter of these appeals. Since the subject suit is of the year 2013, this Court is of the opinion that if the trial Court is directed to dispose of the subject suit within a period of three (3) months from the date

of receipt of a copy of this common judgment, the same would subserve the ends of justice.

6. Accordingly, the learned XXV Additional Chief Judge, City Civil Court, Hyderabad, is directed to dispose of the subject suit in O.S.No.860 of 2013, pending on its file, within a period of three (3) months from the date of receipt of a copy of this order. It is made clear that no opinion is expressed with regard to the merits of the case. The Court below shall dispose of the subject O.S.No.860 of 2013, on merits, in accordance with law. Both the parties shall cooperate for the disposal of the subject suit by the Court below, within the time indicated above.

7. With the above directions, both these Civil Miscellaneous Appeals are disposed of.

Miscellaneous petitions, if any, pending in both these appeals shall stand closed. There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

02nd November, 2022
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