

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SRI JUSTICE NAGESH BHEEMAPAKA
CIVIL MISCELLANEOUS APPEAL No.592 OF 2017**

JUDGMENT: (Per Hon'ble Dr.SAJ)

This Civil Miscellaneous Appeal, under Order XLIII Rule 1(r) of CPC, is filed by the appellants/plaintiffs, aggrieved by the order, dated 28.02.2017 passed in I.A.No.701 of 2016 in O.S.No.497 of 2016 by the learned Special Sessions Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional District Judge, Ranga Reddy District.

2. Head both sides. Perused the record.
3. In the course of submissions, it is brought to the notice of this Court by the learned counsel for the respondents/defendants that the subject Suit was filed for declaration of title and recovery of possession, wherein the subject I.A. was filed seeking temporary injunction restraining the respondents from alienating or creating any third party interest in respect of the suit schedule property.
4. It is demonstrated before this Court that the Court below while dealing with the subject application is of the view that it was

filed for temporary injunction restraining the respondents from interfering with the possession and enjoyment of the appellants in respect of the suit schedule property. The Court below went on discussing whether the appellants are in possession or not and ultimately held that the appellants were not in possession of the suit schedule property and dismissed the subject application. The relief sought in the I.A. is different from the discussion and the conclusions reached by the Court below. The pleadings made in the I.A. and the impugned order, demonstrate the same. Under these circumstances, the impugned order, dated 28.02.2017 passed in I.A.No.701 of 2016 in O.S.No.497 of 2016 by the Court below, is unsustainable.

5. Accordingly, the appeal is allowed and the impugned order, dated 28.02.2017 passed in I.A.No.701 of 2016 in O.S.No.497 of 2016 by the learned Special Sessions Judge for Trial of Cases under Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act-cum-VII Additional District Judge, Ranga Reddy District, is set aside and the subject I.A.No.701 of 2016 is restored to its file. The Court below is directed to dispose of the subject I.A.No.701 of 2016 in O.S.No.497 of 2016 afresh in accordance with law, expeditiously, within a period of thirty days from the date of receipt of a copy of this order.

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

Dr. SHAMEEM AKTHER, J

NAGESH BHEEMAPAKA, J

Date: 28.12.2022
ssp