

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

THURSDAY, THE TWENTY THIRD DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

**PRESENT
THE HONOURABLE SRI JUSTICE SAMBASIVA RAO NAIDU**

SECOND APPEAL NO: 330 OF 2022

Appeal under Section 100 of CPC against the Judgment and decree dated 05/12/2014 made in AS No.28 of 2013 (old AS No.13 of 2011) on the file of the Court of the VIII Additional District Judge, Medak preferred against the decree in OS No.8 of 2004 dated 19/04/2011 on the file of the Court of the Senior Civil Judge, Medak.

Between:

1. Samala Srinivas, S/o Durgaiah, Aged 50yrs, Occu. Pvt. Contractor,
 2. Samala Subhash, S/o.Durgaiah, Aged 45 yrs, Occu. Typist.
 3. Samala Yadaiah, S/o Durgaiah, Aged 40 yrs, Occu. Agriculture,
- All are R/o Rampur village. Kulcharam Mandal, Medak District.
- ...DEFENDANT/ APPELLANTS/ APPELLANT**

AND

1. Bellam Subba Rao, (died) L.Rs R-3 to R-5
 2. Musunuri Gopal Rao, (died) L.Rs R-6 to R-11
 3. B.Vijaya Laxmi, W/o late.Bellam Subba Rao, Aged 55 yrs, Occ. Household.
 4. B.Kiran Kumar, S/o late.Ballam Subba Rao, Aged 33 yr. Occu. Agriculture,
 5. Smt.Nirmalamma, D/o late. Bellam Subba Rao, Aged 42 yrs. Occu. Housewife,
- All are R/o Machavaram village, Mandal and District. Medak.
6. M.Seetha Ramaiah, S/o late. Gopal Rao, Aged 70 yrs,
 7. M.Venkateshwara, S/o late. Gopal Rao, Aged 67 yrs,
 8. M.Nageshwar Rao, S/o late. Gopal Rao, Aged 65 yrs,
 9. M.Krishna Benarjee, S/o late. Gopal Rao, Aged 61 yrs,
 10. M.Maheshwar Rao, S/o late. Gopal Rao, Aged 59 yrs,
 11. M.Srihari, S/o late. Gopal Rao, Aged 54 yrs,
- All are R/o Machavaram village. Mandal and District. Medak.

...PLAINTIFFS/ RESPONDENTS/ RESPONDENTS

IA NO: 1 OF 2023

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to permit the petitioners to withdraw the present Second Appeal No.330 of 2022 with leave to pursue the legal remedies available to the petitioners by way of filing comprehensive Suit for Declaration and title before the Competent Court.

I.A. NO: 2 OF 2015

Petition under Section 151 of CPC praying that in the circumstances stated in the affidavit filed herein, the High Court may be pleased to Suspend the operation of the Judgment and decree made in A.S.No. 28 of 2013 dated 5.12.2014 on the file of VIII Additional District and Sessions Judge, Medak in confirming the Judgment and Decree made in OS No. 8/2004 dated 19-4-2011 on the file of Senior Civil Judge, Medak, pending the present appeal.

For the Appellants : SRI RAJ KUMAR RUDRA, Advocate

For the Respondent Nos.3 to 7 : SRI J.PRABHAKAR, Advocate

For the Respondent No.8: SRI AKULA MANOJ KUMAR, Advocate

For the Respondent Nos.9 to 11 : NONE APPEARED

The Court delivered the following : JUDGMENT

THE HON'BLE SRI JUSTICE SAMBASIVA RAO NAIDU

SECOND APPEAL NO.330 OF 2022

JUDGMENT :

This second appeal is filed being aggrieved by the Judgment and Decree dated 05.12.2014 passed in A.S.No.28 of 2013 (old A.S.No.13 of 2011) by learned VIII Additional District Judge, Medak, whereunder the Judgment and Decree 19.04.2011 passed in O.S.No.8 of 2004 by learned Senior Civil Judge, Medak, was confirmed. The said suit was filed by the respondents/plaintiffs for perpetual injunction and the same was decreed.

2. I.A.No.1 of 2023 is filed by the appellants/defendants seeking permission of this Court to withdraw the Second Appeal with a leave to pursue legal remedies available to the petitioners by way of filing comprehensive suit for declaration and title before the Competent Court.

3. Heard. Perused the record.

4. Taking on record the said submissions, I.A.No.1 of 2023 is allowed. As a consequence thereof, granting leave as prayed for, this Second Appeal is dismissed as withdrawn.

Pending miscellaneous applications, if any, shall stand closed. No Costs.

//TRUE COPY//

Sd/-M.MANJULA
DEPUTY REGISTRAR

SECTION OFFICER

To

1. The VIII Additional District Judge, Medak.
2. The Senior Civil Judge, Medak.
3. One CC to Sri Raj Kumar Rudra, Advocate [OPUC]
4. One CC to Sri Manoj Kumar Akula, Advocate [OPUC]
5. One CC to Sri J.Prabhakar, Advocate [OPUC]
6. Two CD Copies

Kj.

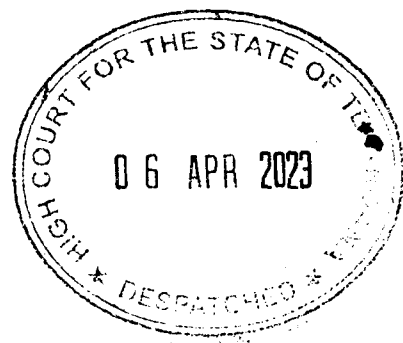


HIGH COURT

DATED:23/03/2023

JUDGMENT

SA.No.330 of 2022



ALLOWING IA NO.1 OF 2023
DISMISSING SA AS WITHDRAWN
WITHOUT COSTS.

(8) VLV
6/4/23