

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

**THURSDAY, THE FIFTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FOUR**

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

CIVIL MISCELLANEOUS APPEAL NO: 387 OF 2024

Appeal Under order 43 Rule 1 of CPC against the order dated 20/02/2024 made in I.A.No.734 of 2022 in O.S.No.1647 of 2022 on the file of the Court of the IV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.

Between:

1. Smt. Sunitha Agarwal, W/o. Mahesh Agarwal, Aged about 58 years, Occ-Household, R/o. H.No. 15-1-469, Feelkhana, Hyderabad, Telangana, And also at- Flat no. 901, DSR Reganti Apartments, Vithalraonagar, Madhapur, Hyderabad - 500081
2. Ms. Jahnvi Gupta, D/o. Smt. Neha Gupta Aged about 19 years.
3. Ms. Aarushi Gupta, D/o. Smt. Neha Gupta /Aged about 15 years (minor)

Both the petitioners are represented by their natural guardian Mrs. Neha Gupta, W/o. Mr. Nikhil Gupta, Aged about 34 years, R/o. H.No. 3-5-784/B and C, King Koti, Hyderabad.

Both the Petitioners' No.2 and 3 are residents of R/o. H.No. 3-5-784/B and C, King Koti, Hyderabad.

...APPELLANTS/RESPONDENTS/DEFENDANTS

AND

Sri. Nand Kishore Agarwal, S/o. Late Sri Pooranmal, -Aged about 63 years, Occ- Business, R/o. Plot No. 27, Sunrise Villas, Upparpally, Attapur, Ranga Reddy District, Telangana.

...RESPONDENT/PETITIONER/PLAINTIFF

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to

7
Suspend the Order Dt. 20/02/2024 passed by the IV Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, until disposal of the CMA.

Counsel for the Appellants: Sri B. Vamshidhar Reddy

Counsel for the Respondent: Sri K. Raghava Ramana

The Court delivered the following JUDGMENT:

THE HON'BLE SRI JUSTICE P.SAM KOSHY
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO
CIVIL MISCELLANEOUS APPEAL No.387 of 2024

JUDGMENT: *(per Hon'ble Sri Justice P.SAM KOSHY)*

The present is a Civil Miscellaneous Appeal which has been filed under Order 43 Rule 1 of C.P.C., assailing the order, dated 20.02.2024 passed in I.A.No.734 of 2022 in O.S.No.1647 of 2022 by the IV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar (for short 'the trial court').

2. Heard Mr.B.Vamshidhar Reddy, learned counsel for the appellants and Mr.K.Raghava Ramana, learned counsel for the respondent. Perused the material available on record.

3. Vide the impugned order, the trial court has allowed the I.A.No.734 of 2022 which is a petition under order 39 Rule 1 & 2. The temporary injunction is in the nature of restrain imposed upon the respondents or any of the person acting on their behalf from alienating or creating third party interest over the suit schedule property.

4. The entire dispute revolves around the land admeasuring Ac.0-18 guntas which is said to have been gifted to the defendant No.1 by one Ms.Varsha Agarwal.

5. The defendant No.1 in turn is said to have entered into an agreement of sale with the plaintiffs on 01.12.2018 in respect of the sale of the suit schedule property admeasuring Ac.0-18 guntas.

6. The petitioners herein who are the defendants contented that they do not have any objection so far as injunction being operational on the suit schedule property except for 1000 square yards of property which is allegedly to have been gifted by the defendant No.1 in favour of her two granddaughters i.e., defendant Nos.2 & 3.

7. The primary objection raised by the petitioner was so far as the authority of entering into agreement of sale in respect of the aforementioned 1000 square yards of property which is said to have already been gifted by defendant No.1 to defendant Nos.2 and 3 and therefore the agreement of sale to the aforesaid agreement is bad and in the said circumstances, the granting of temporary injunction was also not proper, legal and justified.

8. On the contrary, the learned counsel appearing for the respondents during the course of his submissions produced before this Court a legal notice issued by the defendant No.1 Ms.Sunita Agarwal, dated 12.05.2022 claiming herself to be the absolute owner of the 18 guntas of land and that because of the financial constraints that she was facing, she has decided to sell the said property i.e., 18 guntas of land.

9. According to the respondent, if the respondent No.1 had already gifted the property in favour of defendant Nos.2 and 3, she should not have initiated steps for the selling of the entire 18 guntas of land which itself goes contrary to the objection raised by the appellants herein in the present civil miscellaneous appeal.

10. Having heard the contentions put forth on either side and on perusal of record what is primarily to be seen is the nature of temporary injunction granted. For ready reference the operative portion of the injunction order granted by the trial court is reproduced herein under:

In the result, the petition is allowed and accordingly the Temporary Injunction is granted in favour of petitioner restraining the Respondents or any other persons acting on their behalf from alienating the Petition Schedule Property to third parties or creating any third party interest over the Petition Schedule Property to third parties, pending disposal of suit.

The plain reading of the said injunction order would clearly reflect that except for the injunction so far the respondents being restrained from creating third party interest or alienating the suit schedule property, all other rights which have been enjoyed by the respondent/defendants, the

appellants herein remains intact. Under the circumstances, we did not find any substantial prejudice being caused so far as the interest of the appellant are concerned from the nature of injunction that has been passed by the trial court. The Civil Miscellaneous Appeal thus, to the aforesaid extent being devoid of merits, deserves to be and is accordingly rejected.

As a sequel, miscellaneous applications pending, if any, shall stand closed. No order as to costs.

//TRUE COPY//

Sd/- K. SRINIVASA RAO
JOINT REGISTRAR

SECTION OFFICER

- To,
1. The IV Additional District and Sessions Judge, Ranga Reddy District at L.B.Nagar.
 2. One CC to Sri B. Vamshidhar Reddy, Advocate [OPUC]
 3. One CC to Sri K. Raghava Ramana, Advocate [OPUC]
 4. Two CD Copies

VH/gh

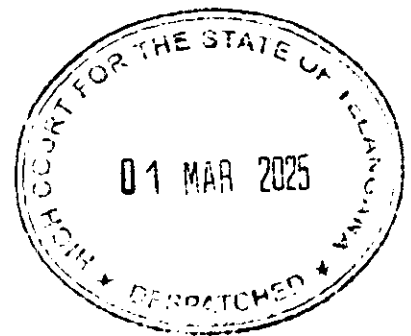


HIGH COURT

DATED: 05/12/2024

JUDGMENT

CMA.No.387 of 2024



REJECTING THE CMA

⑥

kp
12/2/25