APHC010539712024

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI [3625]
(Special Original Jurisdiction)

WEDNESDAY, THE 28th DAY OF OCTOBER 2026

PRESENT

THE HONOURABLE SRI JUSTICE D. RAMESH

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL NO: 755/2024

Between:

1. A LOKANADHA REDDY, , S/O. A. KESAVULU REDDY, AGED ABOUT 35 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
2. A.CHENCHUMUNEMMA, W/O A KESAVULU REDDY, AGED ABOUT 71 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATI.

...APPELLANT(S)

AND

1. A NITHYA SREE, D/O A LOKANADHA REDDY, AGED ABOUT 22 YEARS, R/O BHAGYANAGARAM VILLAGE, DURGASAMUDRAM POST, TIRUPATI RURAL MANDAL, TIRUPATI DISTIRCT
2. A GURUJEEVAN REDDY, S/O. A. LOKANADHA REDDY, AGED ABOUT 26 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
3. A VISWANATHA REDDY, S/O. KESAVULU REDDY, AGED ABOUT 46 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
4. A KESAVULU REDDY, S/O. A VENKATA SUBBA REDDY AGED ABOUT 76 YEARS. R/0. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI

...RESPONDENT(S):

Appeal Under Section_____againstordersbeg to present this Memorandum of Civil Miscellaneous Appeal against the Judgment and decree dated 23-09- 2024 passed in I.A.NO.228/2023 IN O.S.NO.72/2023 , on the file of X ADDITONAL DISTRICT JUDGE TIRUPATI

IA NO: 1 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 pleased to stay the operation of the exparte ad-interim injunction granted on 11-09- 2023, which was made absolute by an order dated 23-09-2024 in I.A.228/2023 in O.S.No.72/2023 on the file of X Additoinal District Judge's Court, Tirupati, in the interest of Justice and pass

Counsel for the Appellant(S):

1. SUBBA RAO KORRAPATI

Counsel for the Respondent(S):

1. D KISHORE KUMAR
2. P PRABHAKAR RAO
3. A RAJENDRA BABU

CIVIL MISCELLANEOUS APPEAL NO: 741/2024

Between:

1. A. VISWANATHA REDDY, S/O. KESAVULU REDDY, AGED ABOUT 46 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
2. A. KESAVULU REDDY,, S/O. A VENKATA SUBBA REDDY, AGED ABOUT 76 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.

...APPELLANT(S)

AND

1. A NITHYA SREE, D/O. A. LOKANADHA REDDY, AGED ABOUT 22 YEARS, R/O. BHAGYANAGARAM VILLAGE, DURGASAMUDRAM POST, TIRUPATHI RURAL MANDAL AND DISTRICT.
2. A LOKANADHA REDDY, S/O. A. KESAVULU REDDY, AGED ABOUT 35 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
3. A GURUJEEVAN REDDY, S/O. A. LOKANADHA REDDY, AGED ABOUT 26 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.
4. A CHENCHUMUNEMMA, S/O. A. KESAVULU REDDY, AGED ABOUT 71 YEARS, R/O. D.NO.19-12-174, BAIRAGIPATTEDA, TIRUPATHI.

...RESPONDENT(S):

Appeal Under Section_____againstordersbegs to present this Memorandum of Civil Miscellaneous appeal against the Judgment Dt 23-09-2024 passed in I.A.No.228/2023 in O.S.No.72/2023 on the file of the X Additional District Judge, Tirupati for the following grounds among other

IA NO: 1 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 pleased to suspend the operation of the Order Dt;23-09-2024 passed in I.A.No.228/2023 in O.S.No.72/2023 on the file of the X Additional District Judge, Tirupathi pending disposal of the CMA and to pass

IA NO: 1 OF 2025

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 pleased to receive the sale deed No.2415/2005 Dt:11-04-2005 as an additional evidence/material paper in the interest of justice in C.M.A No.741/2024 on the file of the Hon'ble High Court. 3nd pass

Counsel for the Appellant(S):

1. P PRABHAKAR RAO

Counsel for the Respondent(S):

1. D KISHORE KUMAR
2. A RAJENDRA BABU
3. SUBBA RAO KORRAPATI

The Court made the following:

THE HONOURABLE SRI JUSTICE D. RAMESH

THE HONOURABLE SRI JUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL Nos:755 & 741 of 2024

COMMON JUDGMENT: *(Per Hon'ble Sri Justice A. Hari Haranadha Sarma)*

1. C.M.A.No.755 of 2024 and C.M.A.No.741 of 2024 are arising out of the orders passed in I.A.No.228 of 2023 in O.S.No.72 of 2023 on the file of the learned X Additional District Judge, Tirupati. The appellants in C.M.A.No.755 of 2024 are the defendant Nos.1 and 5 and the appellants in C.M.A.No.741 of 2024 are the defendant Nos.3 and 4 in the said suit.

2. The suit in O.S.No.72 of 2023 is filed for partition of plaint schedule properties by plaintiff i.e., one Ms. A. Nityasree against her father/ defendant No.1, her brother/ defendant No.2, paternal uncle/ defendant No.3 and paternal grandparents/ defendant Nos.4 and 5, contending that the plaint schedule properties are the ancestral properties and she has 3/4th share in the plaint schedule properties.

3. The plaintiff sought relief of temporary injunction restraining alienation invoking Order 39 Rules 1 and 2 under Section 151 of CPC and the learned X Additional District Judge, Tirupati, *vide* orders dated 23.09.2024 in I.A.No.228 of 2023 allowed the application granting injunction, as prayed for, restraining the alienation.

4. In fact, ad-interim injunction was granted on 11.09.2023 and the same was made absolute.

5. Heard Mr. P. Prabhakar Rao, learned counsel for the appellants in C.M.A.No.741 of 2024, also representing Sri K.Subba Rao, the learned counsel for the appellants on record in C.M.A.No.755 of 2024 and Mr. D. Kishore Kumar and A. Rajendra Babu, learned counsels for the respondents in both the cases.

6. Among the other contentions of defendant Nos.1 and 5 who are the appellants in C.M.A.No.755 of 2024, claimed that item Nos.3 and 4 of the plaint A-schedule property are separate and are self-acquired properties of the 5th defendant and she is the paternal grandmother of the petitioner/ plaintiff. The petitioner/ plaintiff can have no claim over the properties. To substantiate the right of the 5th defendant, while asserting the rights with reference to exhibits R1 to R5 (registered sale deeds and registered will), the application was opposed. However, the learned trial judge allowed the application observing that the contentions/ issues and the recitals in the documents can be considered at appropriate stage on the trial, and that at interlocutory stage looking into the documents is not necessary.

7. Learned counsel for the 5th respondent/ 2nd appellant has submitted that the documents if have been looked into, the exclusive right of the 5th defendant, would have been appreciated by the learned trial judge, but the observations in the order particularly *vide* paragraph Nos.28, 29, 30 and 32 reflects that at the stage of considering the interlocutory application, the

same need not be considered. Relegating the consideration of the impact of the documents to the later stages is not correct.

8. *Per contra*, the learned counsel for the petitioner/ plaintiff would submit that the necessary pleadings as to the nature of the property and acquisition of the properties from common nucleus are asserted in the plaint as well as in the petition. Therefore, the orders under challenge do not require any interference.

9. Replying the same, the learned counsel for the appellants would submit that the submissions as to the existence of nucleus etc., is vague and there is no reference to any particular property as the source for acquisition of the plaint schedule property is now in question, particularly claimed by the 5th defendant/ appellant No.2, therefore, the orders are not sustainable.

10. In C.M.A.No.741 of 2024, the defendant Nos.3 and 4 in the suit disputing the very same orders, contending that the purchase of the property by the defendant No.3 is pursuant to the documents Exs.R6 to R10 and purchase of the property by the defendant No.4 is pursuant to the Exs.R1 and R2, they are also having exclusive right. Further, the emphasis is made on Ex.R6, which is the G.O., issued permitting the alienation of the property, which is a Government property and the purchase of the property by defendant No.3 makes *prima-facie* clear that it is a self-acquisition of defendant No.3. Therefore, the injunction restraining the alienation in

respect of the item No.6 does not stand for the test *prima-facie*. Therefore, the injunction shall be vacated.

11. The reply of the plaintiff is common as to the acquisition from the common nucleus is from the petitioner/ plaintiff side.

12. While hearing the arguments, both sides, with consensus, came with a proposal to have a following arrangement and disposal of the C.M.As:

i) The injunction granted in respect of item Nos.3, 4, 5 and 6 can be vacated and the alienations, if any, made by the defendant No.3 or defendant No.5, shall be subject to the result of the suit in terms of the Section 52 of the Transfer of Property Act, 1882.

ii) The defendant Nos.3 and 5 shall inform the prospective alienee about the pendency of the litigation.

13. In view of the consensus of both sides, the injunction granted in respect of the item Nos.3 to 6 of the plaint schedule properties, restraining the alienation, is vacated, making it clear that any alienations that may be made are subject to the result of the suit and the same shall be informed by the defendant Nos.3 and 5 to the prospective alienee in any form.

14. The learned trial Court is requested to dispose of the suit as early as possible and both the parties are directed to cooperate for disposal of the suit.

15. Accordingly, both the Civil Miscellaneous Appeals are disposed of. There shall be no order as to costs.

As a sequel, the miscellaneous applications, if any, pending in this Writ Appeal shall stand closed.

JUSTICE D. RAMESH

JUSTICE A. HARI HARANADHA SARMA

28.10.2026
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THE HONOURABLE SRI JUSTICE D. RAMESH

THE HONOURABLE SRIJUSTICE A. HARI HARANADHA SARMA

CIVIL MISCELLANEOUS APPEAL Nos: 755 & 471 of 2024

28.10.2026
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