

**THE HON'BLE SRI JUSTICE R. SUBHASH REDDY**

**AND**

**THE HON'BLE SRI JUSTICE A. SHANKAR NARAYANA**

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**CIVIL MISCELLANEOUS APPEAL No.365 OF 2015**

**JUDGMENT:** (Per Hon'ble Sri Justice R. Subhash Reddy)

This appeal, under Section 37 of the Arbitration and Conciliation Act, 1996, is filed by the petitioner in A.O.P.No.140 of 2015 pending on the file of learned II Additional District Judge, Ranga Reddy District at L.B. Nagar, aggrieved by the order, dated 16.04.2015, passed in I.A.No.437 of 2015 in the said A.O.P..

It is the case of the appellant that though respondent Nos.1 to 3 have entered into a license agreement with him leasing out the petition schedule property, in contravention of the terms of agreement, they have entered into another agreement with respondent No.4 and gave him possession of the petition schedule property, wherein respondent No.4 has started a foot wear shop. Hence, he filed the A.O.P. along with the present I.A. with a prayer to grant interim injunction restraining respondent Nos.1 to 3 from letting out the petition schedule property to respondent No.4 or to any other tenant and if possession is delivered, restrain respondent No.4 or any other person from commencing any business operations in the said premises during pendency of the main O.P.. Inasmuch as possession was already delivered to respondent No.4, who started a foot wear business therein, the Court below by impugned order, dated 16.04.2015, has dismissed the I.A..

In the present appeal, it is contended by the learned counsel for

appellant that though there is a Clause in the license agreement to resolve the disputes that arise out of the agreement by way of arbitration, in the impugned order, the civil Court has observed that the appellant prejudiced his right by filing a civil Suit. It is further contended that based on the observations made in the I.A., without further hearing the A.O.P., the A.O.P. itself was listed for orders.

The impugned order is the one disposing of the I.A. only. In that view of the matter, unless the learned counsel for parties are heard finally with regard to the relief claimed in the A.O.P., it cannot be disposed of based on the findings recorded in the I.A.. In any event, even according to the appellant, as possession was already handed over to respondent No.4, who has started business therein, we are in agreement with the view taken by the Court below, refusing injunction. In that view of the matter, we are not inclined to interfere with the order of injunction, but at the same time, we deem it appropriate to dispose of the appeal with a direction to the learned II Additional District Judge, Ranga Reddy District, to dispose of the A.O.P. on merits expeditiously, by hearing the learned counsel for parties and uninfluenced by the findings recorded in the order, dated 16.04.2015.

Subject to the above, the appeal is disposed of. Miscellaneous Petitions, if any, pending in this appeal shall stand closed. No costs.

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**R.SUBHASH REDDY, J**

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**A.SHANKAR NARAYANA, J**

June 08, 2015

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