

HON'BLE SRI JUSTICE R.SUBHASH REDDY
AND
HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

CIVIL MISCELLANEOUS APPEAL No.92 of 2015

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

This Civil Miscellaneous Appeal is filed by the appellant/plaintiff in the suit aggrieved by the order and decree dated 17.09.2012 in I.A.No.130 of 2008 in O.S.No.32 of 2008 passed by the VII Additional District and Sessions Judge (Fast Track Court), Vijayawada, Krishna District, dismissing the application filed by him under Order XXXIX Rules 1 and 2 of C.P.C., seeking to grant temporary injunction restraining the respondents from ever alienating the petition schedule property to third parties.

2. Appellant is the plaintiff and respondents are the defendants in the suit O.S.No.32 of 2008. For the sake of convenience, in this appeal, the parties are referred to as they are arrayed in the suit before the Court below.

3 . The plaintiff is the son of the deceased 1st defendant, whereas defendant Nos.2 to 4 are his sisters, and defendant No.5 is his younger brother, who are the children of the deceased 1st defendant through his first wife-late Damayanthi, who died in the year 1996. Defendant No.6 is his step mother and second wife of the deceased 1st defendant and defendant Nos.7 to 9 are the children of defendant No.6. When the deceased 1st defendant in collusion with defendant No.6 tried to alienate the plaint schedule property to some third parties, the plaintiff filed the aforesaid suit for partition of the plaint schedule property into three equal shares and to allot one such

share to him. Pending disposal of the suit, he also filed I.A.No.130 of 2008 for grant of temporary injunction restraining the defendants from ever alienating the petition schedule property to third parties. The Court below has dismissed the said application through the impugned order and decree dated 17.09.2012. Aggrieved by the same, the plaintiff has filed the present appeal.

4. This Court granted interim injunction as early as on 17.4.2013 and the said order continued all along. When the matter is called for hearing, learned counsel for the parties have brought to the notice of this Court that the trial in the suit has been completed and arguments are also over and the matter is reserved for judgment, however, in view of pendency of the proceedings before this Court, the matter is re-opened and pending.

5. In view of the aforesaid submission, there is no necessity to go into the merits of the case, at this stage. Therefore, keeping in view the interim injunction granted by this Court on 17.4.2013 and in view of the completion of trial and arguments in the suit, we deem it appropriate to dispose of the appeal with a direction to the Court below for expeditious disposal of the suit.

6. Accordingly, this civil miscellaneous appeal is disposed of directing the VII Additional District and Sessions Judge (FTC), Vijayawada, to dispose of the suit itself within a period of one month from the date of receipt of a copy of this judgment. Interim injunction granted by this Court on 17.4.2013 shall continue to operate till disposal of the suit. As a sequel, miscellaneous petitions pending, if any, in this appeal shall stand closed. No order as to costs.

JUSTICE R. SUBHASH REDDY

JUSTICE A. SHANKAR NARAYANA

05.06.2015.

Msr

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