

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.117 of 2016

JUDGMENT:

This appeal is preferred questioning order dated 27.01.2016 in I.A No.537 of 2015 in O.S.No.89 of 2015 on the file of Senior Civil Judge, Jangaon.

2. Appellants herein are defendants No.3 to 6 in the above referred O.S.No.89 of 2015 and the suit is filed to declare that plaintiff is absolute owner and possessor of suit schedule property admeasuring to an extent of Ac.0-10 guntas situated in Sy.No.165 of Jangaon village and for consequential injunction restraining defendants, their men, agents, representatives, servants and workmen etc., from interfering in any manner with peaceful possession and enjoyment of suit schedule property and also for a consequential injunction restraining the defendants and their men from alienating, selling or creating any encumbrance or dealing with suit schedule property in any manner. In that suit, plaintiff filed I.A.No.537 of 2015 claiming interim injunction restraining defendants from interfering with the suit schedule property and the trial court on a consideration of documents produced on behalf of both parties and other material, granted *status quo* directing both parties to maintain it pending disposal of the suit. Questioning the said order, defendants No.3 to 6 filed present appeal and according to them because of the *status quo* order, they are not able to proceed with the construction work undertaken and if the construction work is stalled till disposal of suit, they would suffer irreparable loss and prayed for suspension of that interim order

granted by trial Court.

3. Respondent/Plaintiff filed counter disputing the affidavit averments of appellant herein.

4. Advocate for respondent/plaintiff submitted that let the appellants undertake that they would not claim equities in the event plaintiff succeeds in the suit and so also to undertake not to alienate the property pending disposal of the suit. He further submitted that subsequent to this suit, W.P. No.5588 of 2016 was filed challenging illegal construction and inaction of municipal authorities and that writ petition was allowed directing the municipality to take appropriate steps.

5. Advocate for appellants submitted that appellants are not parties to the said writ petition and they are not aware of the order passed in the writ petition. It is further submitted that 4th appellant on behalf of others also filed affidavit undertaking that appellants would not claim any equities in the event plaintiff succeeds in the suit and that they do not alienate the property pending disposal of the suit.

6. Considering the contentions and rival contentions of both parties, undertaking given by appellants is recorded. *Status quo* order granted by court below is vacated in view of the undertaking given by appellants by way of affidavit by 4th appellant on behalf of all.

7. In terms of undertaking affidavit, this Civil Miscellaneous Petition is disposed of by vacating the status quo order. However this order shall not preclude authorities concerned to take action as per law. No costs.

Miscellaneous Petitions, if any pending, in this Appeal, shall stand closed.

S. RAVI KUMAR, J

Date: 01-04-2016

Note : C.C. Monday

B/o

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