

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.148 of 2016

JUDGMENT :

This appeal is preferred questioning order dated 09.12.2015 in I.A.No.847 of 2015 in O.S.No.37 of 2015 on the file of VII-Additional District Judge at Miryalguda, Nalgonda District.

2. The above referred suit is filed seeking relief of permanent injunction restraining defendant No.1 from alienating or conveying or delivering possession or otherwise creating rights in favour of third parties including defendant No.2 pursuant to the public notice dated 07.10.2015 published in 'Eenadu' Telugu daily newspaper any part of suit schedule property without first offering the same for purchase by the plaintiffs and defendant No.3 at market rate, and contrary to the terms, and in excess of the property allotted to defendant No.1 in the award dated 18.06.2009 in Lok Adalat Case No.497 of 2009 in O.S.No.20 of 2009 on the file of Princiapl District Judge, Nalgonda and without demarcation of the share of plaintiffs, defendant No.3 and defendant No.1 as also common amenities in the suit schedule property. In that suit, plaintiffs filed this I.A. seeking temporary injunction restraining respondent No.1, her men, agents and others from alienating, conveying or delivering possession of petition schedule property either in part or in whole to third

parties or to respondent No.2 pending disposal of main suit. The trial Court on a consideration of material produced by both parties allowed the application partly and directed both parties to maintain *status quo* till disposal of the suit and directed both parties to cooperate for disposal of the suit as expeditiously as possible. When this matter has come up before me on 21.04.2016, considering the submissions of both parties, an Advocate Commissioner was appointed to conduct survey with the help of Mandal Surveyor/qualified Surveyor to localize and identify 'A', 'B' and 'F' schedule property of the Lok Adalat award and in pursuance of warrant issued to Advocate Commissioner he executed the warrant and filed report along with plan and surveyor's report.

3. Now the contention of advocate for plaintiffs i.e., respondent Nos.1 and 2 herein that the Advocate Commissioner has not demarcated the plaint schedule properties and objections were already filed to the Commissioner's report and that advocate Commissioner has not completed the work as per work memo given by plaintiffs.

4. On the other hand, it is the submission of advocate for appellant that Advocate Commissioner noticed that plaintiffs are in excess possession of about 500 sq. yards as per the Lok Adalat award and even the reliefs claimed in the application, consists of three reliefs, which is not permissible. For this Advocate for plaintiffs submitted that

as to the maintainability of suit and reliefs claimed therein this Court has already decided and therefore, objection of appellant is not tenable.

5. I have perused the material papers including the report of Advocate Commissioner, plan prepared by him and Surveyor's report.

6. Now all the contentions raised on behalf of both parties can be resolved only in the suit after adducing evidence on behalf of both parties as it requires material evidence. Now the only grievance of plaintiffs is that if the property is purchased by third parties they may interfere with the enjoyment of plaintiffs right in the property and they may create hurdles to the plaintiffs. Considering the contentions and rival contentions of both parties, I feel by directing trial Court to expedite the trial and decide the same within a time frame and making it clear that any alienations made by appellant herein shall be subject to the result of the suit and the proposed purchaser must be appraised of the dispute involved in the suit and the objections raised by plaintiffs and with that observation by setting aside the impugned order dated 09.12.2015 in I.A.No.847 of 2015, appeal can be disposed of.

7. Accordingly, appeal is disposed of directing the trial Court to decide the suit as expeditiously as possible, preferably within a period of three months from the date of receipt of the order. It is made clear that any alienation made by appellant shall be subject to the result of suit as

indicated above.

8. Miscellaneous petitions pending, if any, shall stand closed. No costs.

S. RAVI KUMAR, J

25th July 2016.

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