

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL MISCELLANEOUS APPEAL No.200 of 2016

JUDGMENT:

This Civil Miscellaneous Appeal is preferred against order dated 30.09.2015 passed in I.A.No.276 of 2015 in O.S.No.684 of 2015 on the file of III Additional District & Sessions Judge, R.R. District at L.B.Nagar.

2. Appellants herein are plaintiffs who filed O.S.No.684 of 2015 for partition of plaint schedule properties, claiming 4/9th share in plaint 'A' and 'B' schedule properties. In the said suit, they filed I.A.No.276 of 2015 seeking relief of temporary injunction restraining respondents from alienating the plaint schedule properties in favour of third parties, pending disposal of suit. That application was resisted by respondents and on consideration of contentions and rival contentions of both parties, trial Court dismissed the application holding that plaintiffs failed to place any material, at least *prima facie* material, to show that the plaint schedule properties are ancestral properties and that they were acquired from the funds derived from ancestral properties and, therefore, dismissed the application. Aggrieved by the same, plaintiffs preferred the present appeal.

3. Heard both sides.

4. Admittedly, the issue as to whether the properties are ancestral properties or self acquired properties has to be decided in the suit after full-fledged trial. When plaintiffs have not produced any *prima facie* material to show that the properties are ancestral properties, they cannot seek relief of injunction. Considering the submissions of both sides and considering the contentions and rival contentions of both parties, I feel that this appeal can be disposed of directing the

Court below to take up trial and dispose of the suit, as expeditiously as possible, by observing that the rights of plaintiffs are protected by principle of *lis pendens*.

5. Accordingly, the appeal is disposed of directing the Court below to decide the suit on merits as expeditiously as possible, without being influenced by any of the observations made in interlocutory order. No costs. Miscellaneous petitions, if any, pending in this appeal, shall stand dismissed.

S. RAVI KUMAR, J

04th August, 2016
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