The Hon'ble Sri Justice C.V.Nagarjuna Reddy

and

The Hon'ble Sri Justice G.Shyam Prasad

Civil Miscellaneous Appeal No.296 of 2016

Date: 09.09.2016

Between:

M/s.Chandana Brothers Shopping Mall
rep. by its Director
Mavuri Venkataramana.

… Appellant

and

Dr.Ayalasomayajula Bhavani Sankar Sastry
and 13 others

…Respondents

Counsel for the Appellant: **Mr.Vedula Venkataramana,**
Senior Counsel
for M/s.Bharadwaj Associataes

Counsel for respondent No.1: **Mr.Manjari S.Ghanu**
for Mr.Milind G.Gokhale

The Court made the following:

Judgment: **(Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)**

The order of injunction, pending OS.No.494 of 2014, granted in favour of respondent No.1- plaintiff, restraining the appellant herein, who is respondent No.14 in IA.No.978 of 2015 and defendant No.14 in the suit, is questioned in this Civil Miscellaneous Appeal (CMA).

For disposal of this CMA, the facts in detail need not be recorded. It will suffice to note that the appellant has purchased the subject land from all the co-owners including respondent No.1 under different registered sale deeds. However, respondent No.1 has disputed the execution of one sale deed. It is his pleaded case that he was forced to execute other sale deeds. The fact, however, remains that all the sale deeds are in force as on today and the appellant has commenced construction of a shopping mall in the schedule land by excavating cellar and foundation.

On the facts of the case, this Court *prima facie* felt during the hearing on 07-09-2016 that preventing the appellant from proceeding with further construction may cause serious and irreparable loss to its interests. Therefore, this Court suggested that in the event respondent No.1 succeeds in the suit, the

appellant shall not claim any equities and that the authorised person on behalf of the appellant shall file an affidavit to this effect.

Accordingly, one Mavuri Venkataramana, Son of late M.Satyanarayana, one of the Directors of the appellant, has filed an affidavit sworn to on 07-09-2016, wherein he has *inter alia* undertaken as under:

> "I state that the appellant herein is giving the present unconditional undertaking not to claim any equity over the proposed shopping mall (which is under construction now) in so far as the right and share of the respondent No.1 herein/Plaintiff, in the event of ultimate success of the respondent No.1 herein/Plaintiff in the said suit in O.S.No.496 of 2014."

In our opinion, the affidavit-undertaking will safeguard the interests of respondent No.1- plaintiff. Accordingly, the affidavit- undertaking is placed on file, which shall form part of this order, and Order, dated 31-03-2016, in IA.No.978 of 2015 in OS.No.496 of 2014 on the file of the XIII Additional District Judge, Gajuwaka, is set aside subject to the said undertaking.

Having regard to the importance of the subject matter, we feel that interests of justice would be met, if the suit is disposed of expeditiously. Accordingly, the lower Court is directed to dispose of the suit as expeditiously as possible and not later than six months from the date of receipt of this order.

The CMA is, accordingly, allowed to the extent indicated above.

As a sequel, CMAMP.No.570 of 2016, filed by the appellant for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

(G.Shyam Prasad, J)

Dt: 9th September, 2016
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