

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

CIVIL MISCELLANEOUS APPEAL No.376 of 2016

27.07.2016

Between:

Mohd.Ahmed Ali

..Appellant

And

Md.Shareef and others

..Respondents

Counsel for the appellant: Mr.K.V.Bhanu Prasad

Counsel for the respondents: None appeared

The Court made the following:

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

This civil miscellaneous appeal arises out of the common order, dated 14.03.2016, to the extent it pertains to I.A.No.1536 of 2015 in O.S.No.134 of 2015 on the file of the learned II Additional District Judge, Warangal.

2. The appellant entered into an agreement of sale on 28.07.2015 with the respondents in respect of a commercial premises bearing municipal bearing No.3-1-133/1 admeasuring 49.25 sq.yds., situated at Kakatiya Colony, Hanamkonda, Warangal. As the respondents did not come forward to execute the registered sale deed, the appellant filed the aforementioned suit for specific performance of the agreement of sale. He also filed the aforementioned I.A. for restraining the respondents from interfering with his peaceful possession and enjoyment of the schedule property. The respondents filed a counter-affidavit before the Court below, wherein they denied the plea of the appellant that he was put in possession as a tenant. In support of his plea, the appellant did not adduce oral evidence. However, he filed Exs.P-1 to P-7. The respondents filed Exs.R-1 to R-4. On appreciation of the documentary evidence, the Court below dismissed the aforementioned I.A. for injunction by rendering a finding that the appellant has not been in possession of the schedule property. Considering the nature of Exs.P-1 to P-7, it is clear that none of these documents shows the possession of the appellant. Even the recitals of the agreement of sale do not reflect the status of the appellant as the alleged tenant being in possession of the schedule property. In these facts of the case, the Court below is justified in drawing the conclusion that the appellant is not in possession of the schedule property and therefore, he is not entitled to the injunction as prayed for.

3. In the light of the above facts, we do not find any reason to

interfere with the order of the Court below to the extent it dismissed I.A.No.1536 of 2015 in O.S.No.134 of 2015.

4. The Civil Miscellaneous Appeal is, accordingly, dismissed.

5. As a sequel to dismissal of the appeal, C.M.A.M.P.No.739 of 2016 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

27th July, 2016

GHN