

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

and

The Hon'ble Sri Justice G.Shyam Prasad

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CMA.No.651 of 2016

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Date: 17.08.2016

Between:

Mohd.Ahmed Ali

..Petitioner

and

Md.Shareef and 2 others

..Respondents

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

The Court made the following:

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

This Civil Miscellaneous Appeal arises out of Common Order, dated 14-03-2016, to the extent it pertains to IA.No.137 of 2016 in OS.No.134 of 2015 on the file of the learned II Additional District Judge, Warangal.

The appellant entered into an agreement of sale on 28.07.2015 with the respondents in respect

of a commercial premises bearing Municipal No.3-1-133/1 admeasuring 49.25 square yards situated at Kakatiya Colony, Hanamkonda, Warangal. As the respondents did not come forward to execute the registered sale deed, the appellant filed the afore-mentioned suit for specific performance of the agreement of sale. He has also filed the afore-mentioned IA for restraining the respondents from leasing out or alienating the suit schedule property to third parties, pending the suit. 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 any 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 afore-mentioned IA by rendering a finding that the appellant has not been in possession of the suit 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 suit 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 suit schedule property and that therefore, he is not entitled to the interim relief as prayed for.

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 IA.No.137 of 2016 in OS.No.134 of 2015.

The Civil Miscellaneous Appeal is, accordingly, dismissed.

As a sequel to dismissal of the Civil Miscellaneous Appeal, Miscellaneous Petitions, pending if any, stand disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

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(G.Shyam Prasad, J)

Dt: 17th August, 2016
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