

HIGH COURT OF ANDHRA PRADESH AT AMARAVATHI
MAIN CASE : S.A.No.531 of 2022
PROCEEDING SHEET

Sl. No.	Date	ORDER	OFFICE NOTE
1.	18.01.2023	<u>SRS,J</u> <u>S.A.No.531 of 2022</u> Plaintiff in suit filed the present second appeal against the judgment and decree dated 15.06.2022 in A.S.No.49 of 2016 on the file of the IV Additional District Judge, Vizianagaram, reversing the judgment and decree dated 01.06.2016 in O.S.No.3 of 2006 on the file of the Senior Civil Judge at Vizianagaram. O.S.No.3 of 2016 is filed seeking specific performance of agreement of sale dated 02.06.2004 or for returning the earnest amount of Rs.4.00 lakhs with damages of Rs.5,93,000/- and for prohibitory permanent injunction for restraining the defendants and their deputed men from in any manner interfering into the possession of the plaint schedule property and for costs of the suit. The trial Court decreed the suit with costs. Aggrieved by the same, defendants 2 to 4 preferred appeal A.S.No.49 of 2016 and the same was allowed reversing the decree and judgment of the trial Court. Hence, the present Second Appeal is filed by the plaintiff. Heard. ADMIT. The following substantial questions of law arise for consideration. 1) Whether the judgment and decree of the lower appellate Court is in conformity with Section	

		16(c) of the Specific Relief Act? 2) Whether the finding of the lower appellate Court with regard to Ex.A.2 agreement of sale is legally sustainable? 3) Whether the time is essence of the contract? If not, the judgment of appellate Court is vitiated? SRS,J <u>I.A.No.3 of 2023</u> Heard. Learned counsel for the petitioner stated that appellant is in possession of the schedule property pursuant to the agreement of sale. In Para No.13 of the affidavit, it is also stated that an injunction was granted in favour of the appellant/petitioner in the suit restraining the defendants from interfering with his possession and the injunction is continued until disposal of the appeal and eventually, the suit was decreed. In appeal A.S.No.49 of 2016 injunction granted by the trial Court was not suspended. Considering the facts and circumstances of the case, there shall be an injunction restraining the defendants from interfering with the peaceful possession of the schedule property in O.S.No.3 of 2016 on the file of the Senior Civil Judge at Vizianagaram subject to condition of petitioner/appellant depositing the suit costs as awarded by the appellate Court within a period of four (4) weeks. If the petitioner fails to deposit the said amount within six weeks, the interim order stands vacated without any further reference. SRS,J KA	
--	--	---	--

--	--	--	--