

**HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE EIGHTH DAY OF AUGUST

TWO THOUSAND AND TWENTY FOUR

:PRESENT:

THE HONOURABLE SMT JUSTICE P.SREE SUDHA

SECOND APPEAL NO: 177 OF 2023

Between:

Kalakoti Pullaiah, S/o Sreeramulu.

Appellant/Respondent No.1/Defendant No.1

AND

1. Kalakoti Lingaiah, S/o Mattaiah, (Died) per LRs.4 to 7
Respondent No.1/Appellant/Plaintiff
2. Kalakoti Vijay, S/o Goverdhan, Age. 45 years, Occ. Agriculturist, R/o.
Srinadhapuram Village, Anumula Mandal, Nalgonda District.
Respondent No.2/Defendant No.2
3. Kalakoti Sreenu, S/o Goverdhan, Age. 48 years, Occ. Agriculturist, R/o.
Srinadhapuram Village, Anumula Mandal, Nalgonda District.
Respondent No.3/Defendant No.3
4. Kalakota Nagamani, S/o Kalakota Lingaiah, Occ. Agriculture, R/o.H.No.1-8,
Ramadugu Post, Anumula Mandal, Nalgonda District.
5. Kalakota Mahendhar, S/o Late Lingaiah, Occ. Agriculture, R/o.H.No.1-8, Ramadugu
Post, Anumula Mandal, Nalgonda District.
6. Kalakota Yogendhar, S/o Late Lingaiah, Occ. Agriculture, R/o.H.No.1-8, Ramadugu
Post, Anumula Mandal, Nalgonda District.
7. Anumula Srilakshmi, S/o Late Satyam, Occ. Agriculture, R/o.H.No.1-8, Ramadugu
Post, Anumula Mandal, Nalgonda District.
(Respondent Nos.4 to 7 are brought on record as per LRs of the deceased Respondent
No.1 vide Court dated 01/11/2023 in IA No.3/2023)

Respondents

Second Appeal under Section 100, the High Court may be pleased to allow the Second Appeal by setting aside the Decree and Judgment dated 25/11/2022 ("Impugned Judgment") passed by the V Additional District Judge, Miryalaguda in A.S. No.02 of 2018;

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant interim injunction restraining the Respondent No. 1 and his nominees, assignees, legal representatives and legal heirs from alienating the schedule property, Pending disposal of SA 177 of 2023, on the file of the High Court.

IA NO: 1 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of judgment and decree dated 25/11/2022 in A.S. No. 02 of 2018 passed by the V Additional District Judge, Miryalaguda, Pending disposal of SA 177 of 2023, on the file of the High Court.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and the order of the High Court dated 30.06.2023, 28.07.2023, 31.08.2023, 29.09.2023, 01.11.2023, 29.11.2023, 26.12.2023, 25.01.2024, 12.02.2024, 05.03.2024, 03.05.2024 & 19.07.2024 made herein and upon hearing the arguments of M/s ALTAF FATHIMA, Advocate for the Appellant and Sri G SUNDARESAN, Advocate for the Respondent No.1, the Court made the following

ORDER:

Heard.

The appeal is admitted on following substantial questions of law:

i. Whether the respondent No.1 was able to prove with the evidence and documents to record that he is in exclusive possession of the suit schedule property.

ii. Whether respondent No.1 was able to prove the burden that lies on respondent No.1 on basis of material available on record that he is the owner and exclusive possessor of the suit scheduled land? If not, can the respondent No.1 rely on alleged weaknesses or alleged absence of defense in the appellant to discharge its onus.

iii. Whether the relief of perpetual injunction can be granted when the plaintiff/respondent No.1 failed to prove his possession and peaceful enjoyment of the property at the time of filing of the suit? And whether a suit for perpetual injunction can lie against true owners of the schedule property.

iv. Whether the plaintiff/respondent No.1 is eligible for equitable relief of perpetual injunction, in a case where the plaintiff/respondent No.1 approached the Court by suppressing material facts of the case? And further where the plaintiff/respondent No.1 commits illegalities by creating 3rd party rights?

v. Whether the Court below was justified in ignoring the material on record and evidence of D.W.1 who deposed that the schedule property does not vest with the plaintiff/respondent No.1.

vi. Whether the judgment and decree of the Courts below are vitiated by non-consideration of relevant pleadings, valid evidence and by perverse reasoning?"

List on 20.09.2024.

Interim Order granted earlier stands extended till then.

//TRUE COPY//

Sd/-MOHD. ISMAIL
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The V Additional District Judge, Miryalaguda
2. One CC to M/s ALTAF FATHIMA, Advocate [OPUC]
3. One spare copy

HIGH COURT

PSS,J

DATED: 08.08.2024.

NOTE: LIST ON 20.09.2024.

ORDER

SECOND APPEAL NO: 177 OF 2023

EXTENSION OF INTERIM ORDER

