

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

**FRIDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

THE HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

SECOND APPEAL No: 526 of 2023

Appeal under Section 100 of C.P.C. against the Judgment and Decree Dated 25-04-2022 made in AS.No.20 of 2016 on the file of the Court of the Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy, Preferred against the Judgment and Decree dated 17-06-2016 passed in O.S.No.152 of 2007 on the file of the Court of the Senior Civil Judge, Sangareddy.

Between:

1. Late R.Shanker Goud, S/o Late Ananthaiah Goud, Died per his LRs. 2 to 7,
2. Smt.Rudraram Padmavati, W/o Late Shanker Goud, Aged about 54 years, Occ: Housewife,
3. Smt.Jhansi Goud, D/o Late Shanker Goud, Aged about 39 years, Occ: Housewife,
4. Smt.Veena, D/o Late Shanker Goud, Aged about 38 years, Occ: Housewife,
5. Smt.Bhavani, D/o Late Shanker Goud, Aged about 37 years, Occ: Housewife
6. Bharath Goud, S/o Late Shanker Goud, Aged about 35 years, Occ: Business,
7. Smt.Rajitha, D/o Late Shanker Goud, Aged about 34 years, Occ: Housewife,

(All are residents of H.No.5-1-3/2, Shadnagar, Sangareddy, Telangana State).

...Appellants/Appellants/Defendants

AND

1. G.Vishwanath, S/o G.Chandraiah, Aged about 85 year, R/o 2-2-90/3, Amberpet, Hyderabad-500 013.
2. G.Venkat Rao, S/o Yadagiri, Aged about 38 years, Occ: Business, R/o H.No.4-6-429, Esamia Bazar, Hyderabad.
3. Smt.M.Indira, W/o M.Seshaiah, Aged about 52 years, Occ: Housewife, R/o H.No.1-3-62, Dhan Bazar, General Bazar, Sec'bad-500 003.
4. Y.Vani, W/o Y.Ramesh, Aged about 37 years, Occ: Household, R/o 327/2, RTPS Nagar, Vijaynagar Colony, Hyderabad.

5. Y.Ganesh, S/o Y.V.Subbaiah, Aged about 40 years, Occ: Business, R/o 327/2, RTPS Nagar, Vijaynagar Colony, Hyderabad.
6. S.Uma Maheshwari, W/o S.Pechalaiah, Aged about 40 years, Occ: Household, R/o Hyderabad.
7. S.Venkat Ram Reddy, S/o S.Upender Reddy, Age: Major, R/o 3-4-450, Narayanaguda, Hyderabad.
8. Jonna Srikanth, S/o J.Chandra Shekar, Aged about 47 years, Occ: Business, R/o Sunder Nagar, Hyderabad.
9. Tadisina Rajeshwar Reddy, S/o T.Laxma Reddy, Aged 45 years, Occ: Business, R/o 3-4-450, Narayanguda, Hyderabad.
10. Madhavi Kannan, W/o Govinda Rajan Kannan, Aged about 38 years, Occ: Housewife, R/o Flat No.101, Sri Ranga Apartments, Narayanaguda, Hyderabad.
11. D.Subba Ramaiah, S/o Veera Swamy, Aged about 70 years, Occ: Business, & Jonna Venkaiah, S/o J.Narsimulu Office at 205, Panchavathimal, Narayanaguda, Hyderabad.
12. Smt.Yashoda, W/o Seetharamaiah, Aged about 70 years, Occ: Household, R/o Rudraram Village, Patancheru, Sangareddy District.

...Respondents/Respondents/Defendants

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 stay the dismissal order dated 25-04-2022 passed in A.S.No.20 of 2016 by the learned Hon'ble Judge, Family Court-cum-VII Addl. District Judge, Sanga Reddy confirming the judgment and decree dated 17-06-2016 in O.S.No.152 of 2007 on the file of Hon'ble Sr. Civil Judge, Sanga Reddy, pending disposal of above S.A.

Counsel for the Appellants: SRI T.V. MURLIDHAR

Counsel for the Respondents: None Appeared

The Court delivered the following: JUDGMENT

HON'BLE SRI JUSTICE LAXMI NARAYANA ALISHETTY

SECOND APPEAL No.526 of 2023

JUDGMENT:

This Second Appeal is filed challenging the judgment and decree dated 25.04.2022 passed in A.S.No.20 of 2016 on the file of the Judge, Family Court-cum-VII Additional District Judge, Medak, Sangareddy, confirming the judgment and decree dated 17.06.2016 passed in O.S.No.152 of 2007, on the file of the Senior Civil Judge, Sangareddy. Thus, the present Second Appeal is filed against the concurrent findings of trial Court as well as first Appellate Court.

2. For the sake of convenience, the parties are referred to as they are arrayed before the trial Court.

3. Brief facts leading to filing of the present Second Appeal are that the plaintiffs have become the absolute owners of the open plot bearing No.29, admeasuring 200 sq.yards, in Sy.No.407; plot bearing No.14, admeasuring 320 sq.yards, in Sy.No.442; plot bearing No.18, admeasuring 320 sq.yards, in Sy.No.407; plot bearing No.35, admeasuring 200 sq.yards, in Sy.No.442; plot bearing No.34, admeasuring 200 sq.yards, in Sy.No.450; plot bearing No.12, admeasuring 200 sq.yards, in Sy.No.447; plot bearing Nos.32 & 33, admeasuring 200

sq.yards, in Sy.No.407; plot bearing No.31, admeasuring 200 sq.yards, in Sy.No.407; plot bearing No.56, admeasuring 296 sq.yards, in Sy.No.405; plot bearing No.27, admeasuring 200 sq.yards, in Sy.No.409; and plot bearing No.06, admeasuring 320 sq.yards, in Sy.No.442 respectively (hereinafter referred to as suit schedule properties), situated at Rudraram Village, Patancheru Mandal, Medak District and they purchased the said plots from their common vendor viz., M/s.Srinidhi Developers Private Limited, under different sale deeds in different years. However, the defendants were trying to dispose them from their respective plots. Therefore, the plaintiffs have filed O.S.No.152 of 2017 for perpetual injunction, on the file of the Senior Civil Judge, Sangareddy.

4. The defendants have filed written statement stating that defendant No.2 was the absolute owner and possessor of the land in Sy.No.407 admeasuring the land to an extent of Ac.0-36 guntas, situated at Rudraram Village, Patancheru Mandal of Medak District. Subsequent to the purchase, the name of defendant No.2 has been entered into revenue records in Sy.No.407 and the land in Sy.No.407 is not converted into non agricultural land from agricultural land and it is not in the shape of plots as alleged by the plaintiffs.

5. Before the trial Court, on behalf of plaintiffs, P.W.1 and P.W.2 were examined and Exs.A1 to A.25 were marked. On behalf of defendants, D.W.1 was examined and Exs.B1 to B16 were marked.

6. The trial Court, after examining the documents filed and evidence let in by both parties, has come to the conclusion that plaintiff Nos.1, 3, 7 and 8 have established their possession and accordingly, vide its judgment and decree dated 17.06.2016, decreed the suit in favour of plaintiff Nos.1, 3, 7 and 8 granting perpetual injunction and in respect of other plaintiffs dismissed the suit.

7. Aggrieved by the judgment and decree dated 17.06.2016, legal representatives of defendant No.1(died) have filed A.S.No.20 of 2016 on the file of the Judge, Family Court-cum-VII Additional District Judge, Medak, Sangareddy. The first appellate Court on re-appreciation of the entire evidence and perusal of the material available on record vide judgment and decree dated 25.04.2022 dismissed the appeal confirming the judgment and decree passed by the trial Court. Hence, the present second appeal.

8. Heard Sri T.V.Murlidhar, learned counsel for the appellants. Perused the record.

9. A perusal of the record discloses that both the Courts below concurrently held that the plaintiff Nos.1, 3, 7 and 8 have established their possession and title over the suit schedule properties by adducing oral evidence of P.W.1 and P.W.2, documentary evidence viz., Exs.A1, A3 and A7 to A9 and link documents viz., Exs.A16, A19, A20, A22, A23 and A24; further the plaintiffs have also proved that defendant No.1, under the guise of Ex.B15 certified copy of registered sale deed document No.10791/2006, dated 18.04.2006 and pahanies, tried to interfere with their peaceful possession and enjoyment of the suit schedule property and rejected the contention of the defendants.

10. Learned counsel for appellants vehemently argued that the trial Court decreed the suit without proper appreciation of the evidence and the lower appellate Court also committed an error in confirming the judgment and decree passed by the trial Court and rejected the contention of the defendants.

11. However, learned counsel for appellants failed to raise any substantial question of law to be decided by this Court in this

second appeal. In fact, all the grounds raised in this appeal are factual in nature and do not qualify as the substantial questions of law in terms of Section 100 C.P.C.

12. It is well settled principle by a catena of decisions of the Apex Court that in the Second Appeal filed under Section 100 C.P.C., this Court cannot interfere with the concurrent findings arrived at by the Courts below, which are based on proper appreciation of the oral and documentary evidence on record.

13. Further, in **Gurdev Kaur v. Kaki**¹, the Apex Court held that the High Court sitting in Second Appeal cannot examine the evidence once again as a third trial Court and the power under Section 100 C.P.C. is very limited and it can be exercised only where a substantial question of law is raised and fell for consideration.

14. Having considered the entire material available on record and the findings recorded by the trial Court as well as the Appellate Court, this Court finds no ground or reason warranting interference with the said concurrent findings, under Section 100 C.P.C. Moreover, the grounds raised by the appellants are factual in nature and no question of law much

¹ (2007) 1 Supreme Court Cases 546

less a substantial question of law arises for consideration in this Second Appeal.

15. Hence, the Second Appeal fails and the same is accordingly dismissed at the stage of admission. No costs.

Pending miscellaneous applications, if any, shall stand closed.

SD/-M. RAMANA KRISHNA
DEPUTY REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy
2. The Senior Civil Judge, Sangareddy.
3. One CC to SRI. T.V. MURLIDHAR, Advocate [OPUC]
4. Two CD Copies

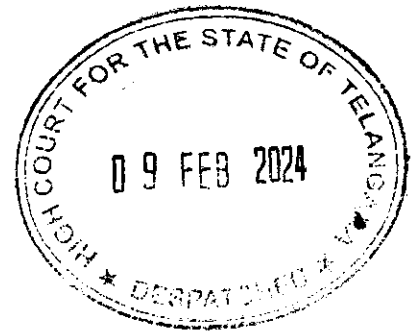
kam
MY

HIGH COURT

DATED:22/12/2023

JUDGMENT

SA.No.526 of 2023



**THE SECOND APPEAL IS
DISMISSED AT THE
STAGE OF ADMISSION**

⑥ *vw*
9/2/24