

HIGH COURT FOR THE STATE OF TELANGANA : HYDERABAD

MAIN CASE No.CMA No.434 of 2025

PROCEEDING SHEET

SL. NO.	DATE	ORDER	OFFICE NOTE
	10.11.2025	<u>NNR,J</u> Heard Sri A.Venkatesh, learned Senior Counsel representing Sri Vadeendra Joshi, learned counsel for the appellant and Sri M.Narayana Rao, learned counsel for the respondent No.1 (caveator). None appeared for the respondent No.2. Brief facts give rise to the present appeal are that the respondent No.1/plaintiff filed the OS No.19 of 2025 against Appellant/Defendant No.1 and Respondent No.2/defendant No.2 for declaration that the plaintiff is the title holder as absolute owner of Ac.3.00 gts in Sy No.98/A (Plaint Schedule-A) and Ac.3-00 gts in Sy No.98/AA (plaint Schedule-B) situated at Thallasingaram Village and for a decree of injunction to restrain the Defendant Nos.1 and 2 from interfering with the alleged possession of the plaintiff over the suit properties. As seen from the record that initially ex parte ad-interim injunction was granted in favour of the respondents herein vide IA No.42 of 2025 in OS NO.19 of 2025, dated 07.03.2025. Subsequently, the appellant herein preferred CMA No.108 of 2025, and this Court suspended the said interim injunction order, vide 27.03.2025. Thereafter, the trial Court passed the orders the on merits, vide 30.10.2025. Aggrieved by the said order, dated 30.10.2025, the present appeal is filed by the appellant/defendant No.1. Though this Court having heard both the parties at length, and decided to dispose of the matter on merits,	Tr. to I.O. folder subject to corrections if any.

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		however it is observed that the Sri M.Narayana Rao, who filed caveat is appearing for the respondent No.1 only and no notice was sent to respondent No.2, however the learned Senior Counsel for the appellant/defendant No.1 contended that respondent No.2 is remained set ex-parte before the trial Court, however to give a fair opportunity of hearing to the respondent No.2, this Court is not inclined to dispose of the matter at this point of time, without issuing notice or hearing to respondent No.2. Besides that, as both the parties are claiming right over the suit schedule property independently through registered settlement deeds wherein the respondent No.1 is relying on registered gift settlement deed, doc Nos.348/2004 and 349/2004, dated 09.02.2004, whereas the appellant is relying on Settlement Deed, Doc Nos.2336/2015 and 2337/20015, dated 08.02.2015. Learned Senior counsel for the appellant further contended that Registered Gift Settlement deed, dated 09.02.2004 are nominal documents and executed by way of security for repayment and in the form of the mortgage, but not as a gift settlement deed. <i>Prima facie</i>, both the parties are claiming right over the suit schedule property and the core dispute is with regard to the land where swimming pool is situated, wherein the respondent No.1 stated that the swimming pool is situated in their land where as the plaintiff also claims their right over the said swimming pool and further contended that the plaintiff has constructed the said swimming pool in their land and argued that the appellant herein has obtained NALA permission from the concerned authorities for conversion of land from agricultural land to non-agricultural land and further	

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		argued that that the same is a commercial one and the same is under the possession of the appellant. Per contra, the respondent pleaded that they have constructed the swimming pool. Though, it is contented that, in the trial Court only the contesting parties are appellant and respondent No.1 and respondent No.2 was set <i>ex-parte</i>, as the appellant seeking interim suspension of interim injunction contending that it would cause great loss and hardship but simultaneously considering the fact that respondent No.1 is also claiming rights of the property. Having considered the rival submissions made by both the parties and notice is yet to be served on respondent No.2, hence, pending disposal of the appeal, this Court opines and deem it fit to suspend the temporary injunction granted by the trial Court in IA No.42 of 2025 in OS No.19 of 2025, dated 30.10.2025 till the next date of hearing and directed both the contesting parties to maintain status-quo as on today over the suit schedule property and in respect of the alleged swimming pool. Issue notice to the respondent No.2. Learned counsel for the petitioner is appellant is permitted to take out personal notice on respondent No.2 and file proof of service by the next date of hearing. List on 24.11.2025. NNR,J SHA	

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