

Vepuri Mallikarjuna Rao v. Gaddapati Sitaramanjaneyulu, 2023 PLRonline 0006

Andhra Pradesh High Court – Amaravati

Vepuri Mallikarjuna Rao v. Gaddapati Sitaramanjaneyulu

Civil Miscellaneous Appeal No. 275 Of 2017

03.04.2023

CPC O. 39 R. 1, 2, CPC O. 43 R. 1 - All observations made by any Court while deciding any interlocutory application are all tentative and confined to those applications - The rights and duties of the parties, the facts and the law applicable have to be determined by the Court in accordance with law based on the material gathered during the course of trial - While deciding the main suit, Courts are not expected to get influenced by any observations that were made by the Court in the interlocutory applications.

Jaikishan Jagwani v. Britomatics Enterprises Pvt. Ltd. 1987 Supp SCC 72 and Rajbir Singh v. Rajbir Singh 1986 Supp SCC 736, referred.

Dr. V R K Krupa Sagar, J

Advocate : A P Venugopal

Judgement

Dr. V.R.K.Krupa Sagar, J

1. Plaintiff is the appellant and this Civil Miscellaneous Appeal is filed under Order XLIII Rule 1 C.P.C. assailing the order dated 30.01.2017 of learned XV Additional District Judge, Nuzvid in I.A.No.902 of 2016 in O.S.No.80 of 2016. Respondents herein are the defendants in the suit.

2. O.S.No.80 of 2016 was filed for declaration and permanent injunction. Pending suit, an interim injunction was sought for under Order XXXIX Rules 1 and 2 C.P.C. by the plaintiff by filing I.A.No.902 of 2016. After due hearing, the said application was dismissed. Assailing that, the present miscellaneous appeal was preferred.

3. Earlier, this Court called for a report about the stage and status of the trial in O.S.No.80 of 2016. Report dated 25.03.2023 of the learned XV Additional District Judge, Nuzvid is placed on record. It indicates that the issues in the suit were settled and trial commenced and plaintiff's side evidence was over and the matter has been coming up for cross-examination of DW.1.

4. Learned counsel for appellant is in attendance and submits that this Court may dispose of this appeal with a direction to the trial Court to adjudicate the suit in accordance with law uninfluenced by any observations it had made in I.A.No.902 of 2016.

5. The submission is fair, reasonable and in accordance with law.
6. All observations made by any Court while deciding any interlocutory application are all tentative and confined to those applications. The rights and duties of the parties, the facts and the law applicable have to be determined by the Court in accordance with law based on the material gathered during the course of trial. While deciding the main suit, Courts are not expected to get influenced by any observations that were made by the Court in the interlocutory applications. This has been the law. A reference in this regard can be made to *Jaikishan Jagwani v. Britomatics Enterprises Pvt. Ltd.* 1987 Supp SCC 72 and *Rajbir Singh v. Rajbir Singh* 1986 Supp SCC 736.
7. Therefore, without going into the merits of this miscellaneous appeal, as requested by the learned counsel for appellant, this appeal is disposed of.
8. In the result, this Civil Miscellaneous Appeal is dismissed and the learned XV Additional District Judge, Nuzvid shall complete the trial in O.S.No.80 of 2016 in accordance with law as expeditiously as possible and dispose of the suit based on the facts and law available from the trial uninfluenced by its own observations made in I.A.No.902 of 2016. There shall be no order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.