

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6936 OF 2008
(Arising out of S.L.P. (C) No.25130/2005)

Padmavathi ...Appellant

Versus

Krishna Murthy Rao ...Respondents
Sindhe M. & Ors.

With
Contpt. Ptn.(C)No.145/2006 in SLP(C)No.25130/2005

ORDER

Leave granted.

This appeal is directed against a judgment and order dated 28.10.2005 passed by the High Court of Karnataka at Bangalore in Miscellaneous First Appeal NO.8349/2005 whereby and whereunder the order of injunction dated 30.8.2005 passed by the XIII Additional City Civil Judge, Mayo Hill Unit, Bangalore in O.S.No.16152/2005, was set aside.

In view of the order proposed to be passed by us, it is not necessary to notice the fact of the matter in great detail.

Suffice it to say that one J.K. Narayana Swamy was the owner of the property. Whereas the plaintiff-appellant claims her right, title and interest in the said property as the widow of said Shri J.K.Narayana Swamy; the defendants-respondents claim themselves to be the assignees in respect

of the said property from one N. Jayalakshmi, said to be the adopted daughter of J.K. Narayana in whose favour a Will was executed by him.

A suit was filed in the year 2005. Defendants-respondents filed written statements in the said suit on or about 15.4.2005. According to them by that time major portion of the construction was completed. However, the learned trial Judge granted an injunction on 30.8.2005 in favour of the plaintiff-appellant restraining the defendants-respondents from encroaching or interfering or putting up any construction in any portion of IA-I schedule property in any manner pending disposal of the suit.

However, a miscellaneous first appeal was filed there against and an order of stay of the operation of the said order was passed by the High Court.

According to the defendants-respondents they raised further constructions pursuant thereto and in furtherance thereof. The impugned order has been passed setting aside the order of the trial Court.

This Court by an order dated 16.12.2005 directed the parties to maintain Status-quo. Inter-alia, on the premise that the defendants-respondents have violated the said order, a contempt petition has also been filed.

Upon hearing learned counsel for the parties, we are of the opinion that in view of the fact that the said interim

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order of Status-quo has been continuing for a longtime, interest of justice would be subserved if the same

is directed to continue with a further direction to the learned trial Judge to hear out the suit itself and dispose

it of as early as possible and preferably within a period of six months from the date of communication of this order.

So far as application for initiating proceedings under Order XXXIX Rule 2A of the Code of Civil Procedure for alleged violation of the said order of status-quo dated 16.12.2005 is concerned, we direct that the said question may be considered by the learned trial Judge along with the hearing of the suit, so that the contention of the respondents-defendants that they had completed almost the entire construction before the order of status-quo was passed on 15.4.2005 as also the allegation of the appellant-plaintiff that in fact the respondents-defendants have raised the construction after the order of status-quo, can be considered by the learned trial Judge on the basis of the materials which may be brought on record by the parties thereto.

It goes without saying that any consequential order, in the event, it is found that the order of this Court has been violated, may be passed by the trial Court itself.

Records of the contempt proceeding may be transmitted to the learned trial Judge with the counter affidavit.

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With the aforementioned directions and observations, the appeal and the contempt petitions are disposed of.

[S.B. SINHA]

.....J.

[CYRIAC JOSEPH]

.....J

New Delhi,
November 20, 2008.

