



HIGH COURT OF ANDHRA PRADESH
TUESDAY ,THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND NINETEEN

PRESENT

THE HONOURABLE SRI JUSTICE G. SHYAM PRASAD
SECOND APPEAL NO: 299 OF 2019

Between:

1. NIMMALA RAMMOHAN RAO S/o. Bhogayya, Hindu, Male, Aged 52 years, Occ Cultivation, Rio Kalla, West Godavari District.
2. Nimmala Jhansi Mahalakshmi, W/o Rammohan Rao, Age 54 years, Occ Housewife, R/o Kalla, West Godavari District.

...PETITIONER(S)

AND:

1. GANISETTI GANGAYYA S/o Mahakali Rao, Aged 51 years, Hindu, Male, Occ Cultivation, Rio Kalla, West Godavari District
3. Ganiseti Venkata Lakshmi, W/o Gangayya, Hindu, Age 45 years, Occ. Cultivation, R/o Kalla, West Godavari District.

...RESPONDENTS

Counsel for the Petitioner(s): E V V S RAVI KUMAR

Counsel for the Respondents:

The Court made the following: ORDER



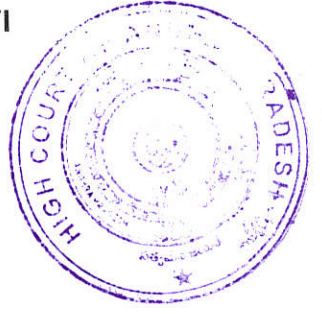
2019:APHC:15827

IN THE HIGH COURT OF ANDHRA PRADESH: AT AMARAVATI

TUESDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND NINETEEN

PRESENT

HONOURABLE SRI JUSTICE GUDISEVA SHYAM PRASAD



SECOND APPEAL NO: 299 OF 2019

(Second Appeal under Section 100 of CPC preferred against the Judgment and Decree dated 19-02-2019 passed in AS No.9 of 2014 on the file of the court of III Additional District Judge, Bhimavaram, preferred against the Judgment and Decree in OS No.430 of 2008, dated 20-11-2012 on the file of Principal Junior Civil Judge, Bhimavaram.)

Between:

1. Nimmala Rammohan Rao, S/o. Bhogayya
2. Nimmala Jhansi Mahalakshmi, W/o Rammohan Rao

...Appellants/Appellants/Plaintiffs

AND

1. Ganiseti Gangayya, S/o Mahakali Rao
2. Ganiseti Venkata Lakshmi, W/o Gangayya

...Respondents/Respondents/Defendants

IA NO: 1 OF 2019

Petition under Order 39 Rules 1 & 2 of CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant injunction restraining the Respondent Nos.1 and 2 and their men from ever causing obstruction in ABCD joint lane as shown in the plaint plan in O.S.No.430 of 2008 on the file of the Principal Junior Civil Judge, Bhimavaram, pending disposal of the above Second Appeal.

For the Appellants: SRI E.V.V.S.RAVI KUMAR, Advocate

The Court made the following: ORDER



permanent injunction. It is also observed that the plaintiffs did not get their plaint amended seeking remedy of mandatory injunction for demolition of the erected cement pole, and electrical wires drawn over the disputed passage.

5. Learned counsel for the appellants submits that since the plaintiffs have not amended the plaint by seeking relief of mandatory injunction the trial Court has dismissed the suit and the appellate court has confirmed the same by dismissing the appeal filed by the plaintiffs. Therefore, the appellants seek liberty to avail the appropriate remedy available to them under law in view of the observations made by the appellate Court in its judgment.

6. In the light of the facts and circumstances of the case it is obvious that there is concurrent finding of both the Courts in respect of rejecting to grant relief claimed by the plaintiffs seeking for permanent injunction against the defendant, from erecting cement polls in ABCD joint lane and the electrical wires over ABCD common lanes as the defendants have already made construction of electrical polls. Therefore, the appellate Court has rightly observed that the appellants have to seek for relief of mandatory injunction as they are no longer entitled for the relief of permanent injunction.

7. In view of the foregoing reasons, the Second Appeal is liable to be dismissed, but however in the circumstances,



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