

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI
MONDAY, THE FIFTEENTH DAY OF MARCH,
TWO THOUSAND AND TWENTY ONE

:PRESENT:

THE HONOURABLE SRI JUSTICE B KRISHNA MOHAN
SECOND APPEAL NO: 3 OF 2021



Between:

Saripalli Venkatapathi Raju, S/o Srinrama Raju, Hindu, Male, aged 50 years,
 Khandavalli Village, Peravali Mandal, W.G.Dt.

...Appellant/Plaintiff in O.S.No.524/2007

AND

1. Bhupathiraju Bhaskar, S/o Varaha Venkata Suryanarayana Raju, Hindu, Male, Aged 33 years, Lands and Business, Hyderabad.
2. Bhupathiraju Varaha Venkata Suryanarayana Raju, Hindu, Male, Aged 50 years, Lands and Business, Hyderabad.
3. Kosuri Subba Raju @ Pedababu, S/o Ramalinga Raju, Hindu, Male, Aged 55 yrs, Cultivation, resident of Khandavalli Village, peravaliMandal,W.G.Dt.

...Respondents

Second Appeal under Section 100 CPC against praying that the Hon'ble High Court may be pleased to set aside the Decree and Judgment passed in A.S.No.131/2015 dated 2nd March 2020 and Decree the suit with costs throughout.

The petition coming on for hearing, upon perusing the Petition and the affidavit filed in support thereof and upon hearing the arguments of Sri Srinivas Mallampalli, Advocate for the Petitioner and Sri CH Dhanamjaya, Advocate for the Respondent, the Court made the following.

ORDER:

"This Second Appeal arises against the Judgment and decree in A.S.No.131 of 2015 on the file of the IV Additional District and Session Judge, Tanuku dated 02.03.2020 reversing the Judgment and decree in O.S.No.524 of 2007 on the file of I Additional Junior Civil Judge, Tanuku, dated 30.04.2015.

Heard the learned counsel for the appellant and the learned counsel for the respondents.

The appellant herein is the respondent in the lower appellate Court and the plaintiff in the suit. The respondents herein are the appellants in the lower appellate Court and the defendants in the suit.

The plaintiff initiated action in O.S.No.524 of 2007 on the file of I Additional Junior Civil Judge, Tanuku against the defendants seeking relief of mandatory injunction directing the restoration of ABCD bode of 3 links width of bode all along the plaintiffs land and the 1st defendant's boundry from North to South and with costs. After hearing the suit on merits, the trial Court decreed the suit directing the 1st defendant to restore the disputed ABCD bodhi to its original place within 3 months from the date of decree, failing which plaintiff is at liberty to restore the ABCD bodhe within 3 months and recover the expenditure incurred by him from the 1st defendant, for restoration of ABCD bodhi, under due process of law, vide its Judgment dated 30.04.2015.

Aggrieved by the same, the defendants preferred 1st appeal in A.S.No.131 of 2015 on the file of IV Additional District and Session Judge, Tanuku. Upon considering the appeal on merits, the lower appellate Court allowed the appeal reversing the Judgment and decree of the trial Court vide it Judgment dated 02.03.2020.

Assailing the same, the plaintiff filed this Second Appeal under Section 100 C.P.C raising the following ground as substantial question of law:-

Whether the appreciation and findings of the Appellate Court in reversing the Judgment and decree of the trial Court is perverse?

In these circumstances, the Second Appeal is admitted and the parties are directed to maintain Status-quo as on today with respect to the suit schedule property until further orders.

List this Second Appeal for final hearing immediately after summer vacation, 2021."

Sd/-B.NarsingaRao
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

For

To,

1. IV Additional District and Session Judge, Tanuku
2. I Additional Junior Civil Judge, Tanuku
3. Bhupathiraju Bhaskar, S/o Varaha Venkata Suryanarayana Raju, Lands and Business, Hyderabad.
4. Bhupathiraju Varaha Venkata Suryanarayana Raju, Lands and Business, Hyderabad.
5. Kosuri Subba Raju @ Pedababu, S/o Ramalinga Raju, resident of Khandavalli Village, peravaliMandal,W.G.Dt. (by RPAD)
6. One CC to Sri. Srinivas Mallampalli, Advocate [OPUC]
7. One CC to Sri. CH.Dhanamjaya, Advocate [OPUC]
8. One spare copy

MM

HIGH COURT

BKMJ

DATED:15/03/2021

NOTE: LIST THIS SECOND APPEAL FOR FINAL HEARING IMMEDIATELY AFTER SUMMER VACATION, 2021

ORDER

SA.No.3 of 2021

INTERIM DIRECTION

