

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

AND

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.M.A.No.257 of 2018

Date: 31.10.2018

Between:

Tallapally Vijaya  
W/o.Laxman,  
Aged 52 years,  
Occ: Housewife  
R/o.H.No.5-571,  
Iqbal Ahmed Nagar,  
Mancherial,  
Mancherial district  
and another

Appellants

And

M/s.Vijetha Developers & Constructions,  
Mancherial rep. by its partner  
Taduri Posham, S/o.Bapu  
Aged 47 years, Occ: Business,  
R/o.H.No.12-363/2,  
Isslampur,  
Mancherial,  
Mancherial and three others.

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Respondents

Counsel for the Appellants : Mr. Gaddam Srinivas

Counsel for the Respondents: Mr. E.Venkat Reddy

**The Court made the following:**

**Judgment:** (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This civil miscellaneous appeal is filed against order dated 12.12.2017 in I.A.No.735 of 2017 in O.S.No.32 of 2017 on the file of the III Additional District Judge at Asifabad FAC II Additional District Judge (FTC) at Mancherial.

2. The sole basis for filing this appeal is that the order passed by the lower court does not conform to the mandatory requirements of Order 39 Rule 3 of C.P.C. As the certified copy of the order filed along with the appeal did not contain any reasons and the counsel for neither of the parties informed the court that a separate order was passed containing reasons, despite a query to that effect was put to them, this court disposed of the C.M.A. by order dated 24.10.2018, setting aside the order under appeal. However, before the said order was signed, Mr.E.Venkat Reddy counsel for the respondents mentioned in the open court that the appellants have only filed the decree part of the order and that a separate docket order containing the reasons, was passed on the same day by the lower court. Therefore, this court directed the case to be posted "for being mentioned".

3. Today at the hearing, the learned counsel for the appellants has admitted that a separate docket order containing reasons, was passed

and that neither his counterpart in the lower court nor the appellants brought this fact to his notice.

4. Inasmuch as the court below has complied with the mandatory requirements of Rule 3 of Order 39 of Code of Civil Procedure, this appeal is not maintainable and the same is, accordingly, dismissed.

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**(C.V.Nagarjuna Reddy, J)**

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**(T.Amarnath Goud, J)**

Date: 31<sup>st</sup> October, 2018

msb



