

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU

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THE HON'BLE SRI JUSTICE V.SRINIVAS

CIVIL MISCELLANEOUS APPEAL NO.167 of 2023

JUDGMENT: *(per Sri Justice D.V.S.S.Somayajulu)*

Sri J.Sarath Chandra, learned counsel is appearing for respondent No.1 and Sri Raviteja Padiri, learned counsel is appearing for respondent No.3.

2. The essential grievance raised by the learned counsel for the petitioner is that the counter affidavit has already been filed in I.A.No.589 of 2022 in O.S.No.14 of 2022 on 24.08.2022. The impugned order was passed, on 01.02.2023, without considering the issues raised. Learned counsel also points out that even if urgency is expressed, the learned trial Court has duty to consider the counter affidavit before coming to any conclusion.

3. Learned counsel for the respondents, on the other hand, submits that since it is only an ad-interim order, this Court need not interfere at this stage. Both the learned counsel submits that the matter is listed to 12.05.2023 for arguments. They also agreed that they are prepared to argue the matter on 12.05.2023 on its merits.

4. Without expressing anything further on the merits of the matter, since the counter of the respondent Nos.1 and 2 is already filed and Sri Raviteja Padiri, learned counsel appearing for respondent No.3, agrees that they would also cooperate with the Court below for disposal of the matter, the Docket Order, dated 01.02.2023 is vacated and direction is given to the learned XI Additional District Judge to complete the hearing on priority and dispose on merits of the matter.

5. With the above observations, the Civil Miscellaneous Appeal is disposed of. There shall be no order as to costs.

6. As a sequel, Miscellaneous Applications, if any, pending shall also stand dismissed.

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE V.SRINIVAS

Date: 09.05.2023
Krs

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