

THE HON'BLE SRI JUSTICE D.V.S.S.SOMAYAJULU
&
THE HON'BLE SRI JUSTICE DUPPALA VENKATA RAMANA
Civil Miscellaneous Appeal No.324 of 2023

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

Heard Sri V.V.L.N. Sarma, learned counsel for the appellant and learned counsel for the respondent.

2. As pointed out that the two applications were filed in I.A.No.80 of 2023 in O.S.No.4 of 2023 which is an application for attachment before judgment. The 1st application is I.A.No.120 of 2023 which is filed to reopen the matter for further hearing in I.A.No.80 of 2023. The 2nd application is I.A.No.121 of 2023 which is filed for the purpose of filing an additional counter in I.A.No.80 of 2023.

3. Counters were filed in both the interlocutory applications. After hearing the matters, both the applications i.e., I.A.No.120 of 2023 and I.A.No.121 of 2023 in I.A.No.80 of 2023 were allowed.

4. Once these applications are allowed, as rightly pointed out by the learned counsel for the appellant, the

matter must have been reopened for the purpose of further hearing. It is also clear that an additional counter has been filed. The averments therein also have to be considered by the trial Court, before I.A.No.80 of 2023 is decided. Without doing the same, while allowing the applications itself, interim conditional attachment was granted.

5. Therefore, the finding of the trial Court in point No.2 in the order dated 03.08.2023 passed in I.A.No.121 of 2023, that conditional attachment is granted over the petition schedule property and the direction issued to the defendant to furnish security within three days are both set aside.

6. The trial Court is directed to hear I.A.No.80 of 2023 on its own merits and pass necessary orders after hearing both the counsel within a period of one week from the date of the receipt of a copy of this order.

7. It is made clear that if any request is made for adjournment, it should be dealt with strictly and in accordance with law.

8. Accordingly, Civil Miscellaneous Appeal is allowed.

There shall be no order as to costs.

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

JUSTICE D.V.S.S.SOMAYAJULU

JUSTICE DUPPALA VENKATA RAMANA

Date: 29.08.2023.
AG/NKA

131

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