

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No.647 of 2014

ORDER:

Plaintiff No.1 in O.S.No.119 of 2011 on the file of the Court of learned Senior Civil Judge, Peddapally, Karimnagar District is the petitioner in the present revision filed under Article 227 of Constitution of India.

In the present revision challenge is the docket order, dated 12-12-2013 passed by the said Court, allowing I.A.No.795 of 2011 filed by the respondents 1 and 2 herein for stay of suit.

Heard Sri A. Ravinder, learned counsel for the petitioner and Sri V. Ravi Kiran Rao, learned counsel for the respondents 1 and 2 apart from perusing the material available before this Court.

Petitioner herein instituted O.S.No.119 of 2011 on the file of the Court of learned Senior Civil Judge, Peddapally against respondent Nos.1 and 2 herein for perpetual injunction in respect of the suit schedule property situated in Sy.No.346 of Kishanraopet Shivar, Velgatoor mandal, Karimnagar District.

In the said suit defendants 1 and 2 who are respondents 1 and 2 herein filed the present application, I.A.No.795 of 2011, under the provisions of Section 10 r/w.151 of the Code of Civil Procedure, seeking stay of the suit on the ground that prior to filing the present suit i.e., O.S.No.119 of 2011, they filed O.S.No.29 of 2011 on the file of the Court of learned Junior Civil Judge, Peddapally for grant of injunction in respect of the same schedule

property, wherein the learned Junior Civil Judge granted interim injunction on 27-04-2011 vide I.A.No.94 of 2011.

According to the respondents 1 and 2, the defendants in O.S.No.29 of 2011 received notices and appeared before the Court on 09-06-2011 and filed counter and written statement in the month of August, 2011.

In the above background, the respondents 1 and 2 herein filed I.A.No.795 of 2011, seeking stay of O.S.No.119 of 2011. The learned Senior Civil Judge, Peddapally, by virtue of the order impugned, allowed the application filed by the respondents 1 and 2 herein.

Calling in question the validity and legal acceptability of the said order passed by the learned Senior Civil Judge the present revision has been filed by the plaintiff/petitioner herein.

It is contended by the learned counsel for the petitioner that the order passed by the Court below is erroneous, contrary to law and is opposed the very spirit and object of provisions of Order 1 Rule 10 of C.P.C. It is further argued by the learned counsel that without giving any opportunity to the plaintiff to file counter the learned Judge passed the impugned order without assigning any reasons.

On the contrary, it is contended by learned counsel for the respondents 1 and 2 that the learned Senior Civil Judge is perfectly justified in passing the impugned order in view of the facts and circumstances of the case. It is further contended by the

learned counsel that there is no illegality nor any jurisdictional error in the order impugned, as such the present revision is not maintainable under Article 227 of the Constitution of India.

A perusal of the material available before this Court manifestly discloses that the respondents 1 and 2 herein instituted O.S.No.29 of 2011 on the file of the Court of learned Junior Civil Judge, Peddapally, seeking permanent injunction in the month of April, 2011. According to the respondents herein, the said Court granted interim injunction on 27-04-2011 in I.A.No.94 of 2011 and the defendants therein received notices and appeared before the Court on 09-06-2011 and filed counter and written statement in the month of August, 2011.

As evident from the copy of the plaint in O.S.No.119 of 2011 made available before this Court by the learned counsel for the petitioner, the plaintiff No.1/petitioner herein along with one Mr.MD. Abdulla instituted the said suit in the month of July, 2011. As per the provisions of Section 10 of the Code of Civil Procedure no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court.

In view of the above provision of law, the learned Senior Civil Judge is justified in staying O.S.No.119 of 2011. This Court in the facts and circumstances of the case does not find any jurisdictional error in the order passed by the learned Senior Civil Judge. It is a settled and well-established proposition of law that unless the order impugned suffers from any perversity and jurisdictional error, the invocation of jurisdiction under Article 227 of Constitution of India is impermissible.

In the facts and circumstances of the case, this Court has absolutely no scintilla of hesitation nor any traces of doubt to hold that the present revision is completely devoid of merits.

For the aforesaid reasons, this revision is dismissed confirming the order, dated 12-12-2013 passed by the learned Senior Civil Judge, Peddapally in I.A.No.795 of 2011. However, taking into consideration the totality of circumstances this Court deems it appropriate to direct the learned Junior Civil Judge, Peddapally to dispose of O.S.No.29 of 2011 within a period of six (6) months from today. There shall be no order as to costs.

Office to communicate the order to the Court of learned Junior Civil Judge, Peddapally, Karimnagar District, for taking necessary action in the matter.

The Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

February 19, 2015

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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