

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

Civil Revision Petition No.1794 of 2013

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.21.01.2013 in C.M.A.No.1 of 2012 of the I Additional District Judge, R.R. District in confirming the order dt.05.12.2011 in I.A.No.243 of 2011 in O.S.No.37 of 2011 of the Additional Junior Civil Judge, Rajendranagar, Rangareddy District.

2. Petitioner herein is plaintiff in the above suit. The said suit was filed for perpetual injunction restraining the respondents from interfering with her alleged possession and enjoyment of the suit schedule property, which is said to be a house bearing No.3-93/3 in Khanapur village, Rajendranagar Mandal.

3 . Along with the suit, she filed I.A.No.243 of 2011 under Order XXXIX Rules 1 and 2 CPC against the respondents for a temporary injunction pending the suit, contending that the 1st respondent is her brother and that he gifted the suit schedule property to her under a Registered Gift Deed dt.18.06.2009. According to the petitioner, the 1st respondent obtained the property under an unregistered sale deed dt.07.11.1981.

4. Counter affidavit was filed by the 2nd respondent disputing the title of the petitioner and her brother. He contended that under proceedings of the Mandal Revenue Officer No.D/2250/2000, dt.27.07/2000, the name of her husband, Pedapally Ramulu, was mutated as pattadar and possessor of land measuring 32 guntas in survey Nos.220, 222 and 223 of Ghanapur village; the said Ramulu

died and she succeeded to the said property; that she alienated Ac.0.01 gts land admeasuring 120 sq. yards in survey No.220 of Ghanapur village to the 3rd respondent under a registered sale deed dt.06.04.2011 and delivered vacant and physical possession of the said land to him under the said document; and that the 3rd respondent is in enjoyment of the said property.

5. By order dt.05.12.2011, the Additional Junior Civil Judge, Rajendranagar dismissed the said I.A. on the ground that respondents 2 and 3 had *prima facie* title and the petitioner had acquired title to the property from 1st respondent, who himself acquired title under an unregistered private sale deed dt.07.11.1981, and the vendors of the 1st respondent were not shown to have any right over the petition schedule property. It held that the petitioner cannot be granted any injunction against the real owners of the property.

6. Challenging the same, the petitioner filed CMA No.01 of 2012 before the I Additional District Judge, R.R. District at L.B. Nagar, Hyderabad. The said Court dismissed the appeal confirming the findings of the trial Court.

7. It observed that the trial Court incidentally looked into the title of the parties and observed that in Ex.P1 Gift Settlement Deed, under which the petitioner claims to have obtained the property from her brother/1st respondent, it was mentioned that the property was ancestral property, which is contrary to the case set up by the petitioner that the 1st respondent had purchased the property from one Ramulu and another person. It also compared the boundaries of suit schedule property as per Ex.P1 and the Grampanchayat permission under Ex.P2 and observed that the petitioner had failed to

mention the names of the neighbours to the plaint schedule property. Since the same property is being claimed by the both parties, it held that in the absence of documents showing *prima facie* title of the 1st respondent over the plaint schedule property, order of the trial Court cannot be interfered with.

8. Challenging the same this Revision is filed.

9. Although counsel for the petitioner had sought to contend that both the orders of the trial Court as well as the lower appellate Court are erroneous and warrant interference by this Court in exercise of its power under Article 227 of the Constitution of India, the fact remains that in the trial Court, first, only a status quo order was granted pending I.A.No.243 of 2011 and the said I.A. was dismissed on 05.12.2011, and the same came to be confirmed in CMA.No.1 of 2012 by the lower appellate court.

10. Since there has been no injunction in favour of the petitioner against the respondents 2 and 3 from 2011 onwards and since I am of the view that the concurrent findings of fact of both the Courts *prima facie* do not indicate that the petitioner is entitled to a relief of temporary injunction, I am of the opinion that this is not a fit case to exercise jurisdiction under Article 227 of the Constitution of India and interfere with the orders passed by both the Courts below.

11. Therefore, this Civil Revision Petition is disposed of directing the Additional Junior civil Judge, Ranga Reddy District at Rajendra Nagar to dispose of O.S.No.37 of 2011 as expeditiously as possible, preferably within six (06) weeks from the date of receipt of a copy of this order, uninfluenced by the order passed by him in I.A.No.243 of 2011 or by the I Additional District Judge, Ranga Reddy in CMA No.1 of 2012 or by the order in this Revision. There shall be no order as to costs.

12. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J.

08th September, 2015

gra