

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.3486 of 2014

ORDER:

Heard learned counsel for the petitioner and the respondents.

Plaintiff in O.S.No.9 of 2013 in the Court of Junior Civil Judge, Jedcharla is the revision petitioner. The civil revision petition is directed against the order dated 14.08.2014 refusing to grant temporary injunction in CMA.No.15 of 2013.

Learned appellate Judge as well as the trial Court, considering the pleadings of the case and the documentary evidence filed in support of the case, have disbelieved the case of plaintiff. Hence, the revision.

Sri J.Suresh Babu, learned counsel for the petitioner, contends that boundaries prevail over the description or identity of property. The plaintiff is required to *prima facie* show his entitlement and possession of the plaint schedule property. According to learned counsel, the plaintiff has discharged burden by placing on record Exs.P.1 to P.9 and prays for grant of either temporary injunction or continuation of the *status quo* granted by this Court on 13.10.2014.

On the other hand, Sri P.Narayana Babu, learned counsel for the respondents contends that the plaintiff claims title to plaint schedule through document No.809/85 (17.05.1985). The schedule of the said document does not cover Sy.No.64/3. The property purchased under the said sale deed is Sy.No.64/1 and the case of plaintiff is required to be examined in a full-fledged trial and that the material available on record does not show *prima facie* case much less the possession claimed by the plaintiff. The learned counsel places strong reliance on the findings of fact recorded by the appellate as well as trial Court and prays for dismissal of the revision.

The point for consideration is whether orders impugned in the revision suffer from illegal exercise of jurisdiction or findings are recorded contrary to material available on record.

Admittedly, through registered sale deed dated 17.05.1985, the

plaintiff has purchased the property in Sy.No.64/1. The suit schedule property is shown as Sy.No.64/3 with the following boundaries:

“East: Land in Sy.No.62
West: Part of Land in Sy.No.64/1
North: Part of land in Sy.No.64/1
Sough: Land in Sy.No.29”

The trial Court and the appellate Court have considered the anomalies in the case pleaded by the petitioner and the proof placed before the Court. In view of this Court, the findings now recorded by the Courts below are on the basis of documents available on record.

No exception can be taken to these findings. This court cannot independently re-examine the documentary evidence and come to a conclusion on the case pleaded by the plaintiff.

In the opinion of this Court, the matter requires trial and the refusal to grant temporary injunction is justified. The suit was filed in the year 2013 and the suit is one for injunction simplicitor. The trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order.

With the above direction, the civil revision petition is dismissed. No order as to costs.

The trial Court is directed to proceed in the matter independently and more particularly uninfluenced by any of the findings recorded while disposing of the I.A. or revision.

Miscellaneous petitions, if any, pending in the revision petition shall stand closed.

S.V. BHATT, J

Date: 09.02.2015

KLP