

HON'BLE SRI JUSTICE S. RAVI KUMAR

CIVIL REVISION PETITION No.2765 of 2014

ORDER:

This revision is preferred against order dated 08.08.2014 in I.A.No.63 of 2014 in O.S.No.110 of 2014.

2. The revision petitioner herein is plaintiff in O.S.No.110 of 2014 and she filed I.A.No.63 of 2014 claiming interim injunction. The suit in O.S.No.110 of 2014 is filed for permanent injunction and the Court below granted *ex parte* temporary injunction in favour of plaintiff and subsequently after counter is filed on behalf of respondents, the Court below vacated the *ex parte* injunction on 22.04.2014 and dismissed I.A.No.63 of 2014 holding that the contentions and rival contentions of both parties have to be decided during trial. Aggrieved by the dismissal of the interim injunction petition by the Sub Divisional Magistrate (Mobile Court), Bhadrachalam, the present revision is preferred.

3. Heard both sides

4. Advocate for revision petitioner submitted that plaintiff got the suit property through un-registered settlement deed dated 11.02.1997 and she has been in possession and enjoyment of the property since then. He submitted that she produced tax receipts and certificate issued by the Gram Panchayat, Bhadrachalam, showing that she is in possession of the suit schedule property, but, the Court below without referring to those documents,

unilaterally vacated the injunction order, therefore, the same has to be set aside.

5. On the other hand, learned counsel for respondents submitted that as there is dispute with regard to the identity of the property i.e., in the settlement deed refers to Door No.9-1-22 whereas suit schedule property is in respect of Door No.9-1-21/4, therefore, the Court below held that it has to be decided only during trial and there is no illegality in the order of the Court below.

6. Now the point that would arise for my consideration in this revision is:

Whether the order in I.A.No.63 of 2014 in O.S.No.110 of 2014 of the Sub Divisional Magistrate (Mobile Court), Bhadrachalam, is legal, proper and correct?

POINT :

7. I have perused the material papers and the impugned order dated 08.08.2014. I have also perused the plaint and the affidavit filed in support of I.A.No.63 of 2014. As rightly observed by the Court below, there is a discrepancy with regard to door number of the property covered by un-registered settlement dated 11.02.1997. There is no whisper in the plaint or in the affidavit as to the change of door number from 9-1-22 to 9-1-21/4 and this aspect has to be decided only on appreciation of evidence that is to be adduced on behalf of both parties during trial. The Court below on this ground vacated the interim injunction granted in favour of plaintiff and I do not

find any illegality in the order of the Court below. Now the only contention of counsel for revision petitioner is that in the Will relied on by the opposite party, there is a recital admitting possession of plaintiff in respect of subject property, therefore, vacating the interim order is not correct. But these aspects namely the recitals in the Will and the ambiguity with regard to change of door number is a matter of evidence, which has to be decided during trial, therefore, I feel that revision has to be disposed of by directing the Court below to expedite the trial and till disposal of suit, both parties have to maintain *status quo* and cooperate with the Court below in deciding the suit.

8. Accordingly, the civil revision petition is disposed of confirming the order of Court below by directing the Court below to dispose of the suit within six months from the date of receipt of this order and both parties shall maintain *status quo* till then.

9. Miscellaneous Petitions, if any, shall stand dismissed.

S. RAVI KUMAR, J

2nd March 2015.

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