

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

C.R.P. No. 1364 OF 2015

ORDER :

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This Civil Revision Petition is filed against order and decree dated 23.01.2015 in I.A.No.909 of 2014 in C.M.A No.38 of 2014 wherein the lower Appellate Court dismissed the application filed for suspension of the order of trial Court passed in I.A.No.249 of 2014 in O.S.No.54 of 2014 dated 29.10.2014.

2. The case of the petitioner is that the respondent filed I.A.No.249 of 2014 in O.S.No.54 of 2014 seeking temporary injunction under Order XXXIX Rules 1 and 2 of CPC and though the petitioner filed counter and raised elaborate grounds, but still the trial Court granted injunction by order dated 29.10.2014. Though the petitioner filed CMA No.38 of 2014 along with I.A.No.909 of 2014 seeking suspension of the order of the trial Court dated 29.10.2014, the lower Appellate Court, without considering the pleadings of the petitioner, dismissed the same.

3. Heard Sri A.V.Sivaiah, learned counsel for the petitioner.

4. A perusal of the order passed by the trial Court in I.A.No.249 of 2014 in O.S.No.54 of 2014 dated 29.10.2014 shows that basing on the documentary evidence on behalf of the respondent i.e., Exs.P1 to P3, sale deed, pattadar passbook and title deed issued in favour of the respondent, the trial Court granted injunction in favour of the respondent and that injunction is in operation since 29.10.2014.

5. A perusal of the order passed by the lower Appellate Court in I.A.No.909 of 2014 in C.M.A.No.38 of 2014 dated 23.01.2015, shows that the lower appellate Court also observed that the petitioner filed another suit O.S.No.32 of 2014 against the respondent and that if the petitioner is aggrieved of any of the acts of the respondent, he can challenge the same in the said suit i.e., O.S.No.32 of 2014.

6. It is not the case of the petitioner that under the guise of

injunction, the respondent is trespassing into his land and nothing is brought to my notice about the illegality or irregularity in the impugned order passed by the lower appellate Court. Instead of pursuing the Civil Revision Petition against orders in I.A.No.909 of 2014 in CMA No.38 of 2014, petitioner could have pressed for disposal of main CMA itself. The lower Appellate Court observed that the main CMA itself can be disposed of. I do not see any error or any irregularity or illegality warranting interference of this Court by exercising under Article 227 of the Constitution of India.

Accordingly, the Civil Revision Petition is dismissed. However, the lower Appellate Court is directed to dispose of the main Civil Miscellaneous Application i.e., CMA No.38 of 2014 on merits, without being influenced by any of the observations made herein, within a period of two months from the date of receipt of a copy of this order.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any pending in this Civil Revision Petition shall stand closed.

A.RAJASHEKER REDDY, J

30.06.2015.
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HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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