

HON'BLE SRI JUSTICE S.V.BHATT

CIVIL REVISION PETITION No.3115 OF 2015

ORDER:

Plaintiff in O.S. No.96 of 2014 in the Court of Principal Junior Civil Judge, Kovur is the revision petitioner.

The revision is direction against the order dated 05.05.2015 in I.A.No.116 of 2015. The petitioner filed the instant application for grant of police protection pursuant to temporary injunction order dated 21.08.2014 in I.A. No.405 of 2014.

The learned trial Judge dismissed the application by recording a finding in the following terms:

“Basing on the rival contentions, the Court is of the opinion that the respondents preferred C.M.A.No.4/2014 aggrieved against the orders passed in I.A.No.405/2014. Therefore, the orders of this court has not attained finality as the rights of the parties are not crystallized. Further when the appeal is pending before the Appellate Court preferred by the respondents then it is unjust to invoke the inherent jurisdiction and grant police aid which will amount to abuse of process of law. Further, the petitioner filed the petition in the suit instead of filing in I.A.No.405/2014 which is also irregular. When the petitioner and respondents are scrambling over the piece of land claiming possession over it adverse to each other, then it is not desirable to give direction to the police to aid to the petitioner.”

From the above, it is evident that the first reason for not granting police protection is pendency of C.M.A.No.4 of 2014 against I.A.No.405 of 2014. The petitioner, instead of filing a petition in I.A. No.405 of 2014, filed petition for police aid in O.S. No.96 of 2014. The further finding is that the petitioner and the respondents are scrambling for possession and in such an eventuality grant of police aid is not desirable.

Each one of the reasons in my considered view is untenable and for all purposes amounts to failure to exercise the jurisdiction conferred on the trial Court to consider granting police aid pursuant to the order of injunction granted by the Court. If the trial Court is of the view that unless the C.M.A. is disposed of by the learned Senior Civil Judge, the trial Court could not take up the application for police aid, it ought to have certainly either directed the parties to obtain early orders in pending C.M.A. or adjourned the instant application. In the application while considering the prayer for police protection, recording a finding about the scrambling for possession by parties is unwarranted. The exercise of discretion by the trial Court in the matters of granting

police aid is no more res-integra. As I am not in agreement with the reasons recorded, I am satisfied that the C.R.P. can be disposed of in the following terms:

- a. The order in I.A.No.116 of 2014 is set aside and the I.A. is remanded to trial Court for fresh disposal in accordance with law.
- b. The Senior Civil Judge, Kovur, is directed to dispose of C.M.A.No.4 of 2014 within four weeks from the date of receipt of a copy of this order.
- c. The Registry is directed to forward a copy of this Order to the Principal District Judge, Nellore, to communicate the direction of this Court for expeditious disposal of C.M.A.No.4 of 2014 by the Senior Civil Judge.
- d. While ordering the C.R.P, it shall not be construed that this Court has expressed any view on the merits of case and entitlement of petitioner for police aid.

The C.R.P. is ordered accordingly. No order as to costs.

Miscellaneous petitions pending, if any, in the C.R.P. shall stand closed.

S.V.BHATT,J

Date: 01.10.2015

Stp