

THE HON'BLE SRI JUSTICE K.C.BHANU

CIVIL REVISION PETITION NO.606 OF 2015

ORDER:

This petition is filed against the order, dated 17-11-2014 in I.A.No.867 of 2014 in O.S.No.305 of 2012 on the file of the Principal Junior Civil Judge, Sattenapalli.

2. The above application was filed under Section 151 CPC by the respondent herein (plaintiff) to grant police aid for implementation of the temporary injunction order passed in I.A.No.2590 of 2013 so as to enjoy the suit schedule property by the plaintiff free from obstruction of the defendants and their men.

3. The trial Court after considering the material on record, allowed the application directing the Station House Officer, Rajupalem Police Station to provide necessary Police aid to the plaintiff. Challenging the said order, the present revision is filed by the defendants.

4. Learned counsel appearing for the petitioners herein (defendants) contended that there is no specific allegation that the petitioners violated the injunction order, that the petitioners raised crop in the schedule property, that if there is any violation or willful disobedience of the injunction order, the remedy of the respondent herein (plaintiff) is to file an application under Order XXXIX Rule 2-A CPC and hence, he prays to set aside the impugned order. He placed reliance on a decision reported in **POLAVARAPU NAGAMANI AND OTHERS V PARCHURI KOTESHWARA RAO AND OTHERS** ^[1].

5. 1st respondent herein (plaintiff) filed I.A.No.2590 of 2013 for temporary injunction restraining the petitioners herein (defendants) from ever interfering with his peaceful possession and enjoyment of the suit schedule property. In that application, ad-interim injunction was ordered on 21-07-2013 on merits and the said order has become final. When there was obstruction for enjoyment of the schedule property by the plaintiff, he approached concerned Police Station, who

informed him to get an order from the Court.

6. Counsel for the petitioners herein (defendants) in the trial Court stated that it is the defendants who raised the crop and the plaintiff is trying to interfere with the same and the same plea has been raised in this revision stating that the defendants have raised the crop. When the injunction order, dated 21-07-2013 is in force, the petitioners herein cannot contend that they are in possession and enjoyment of the property. Injunction was granted after hearing both sides. Therefore, for implementation of injunction order, the present application was filed.

7. Learned Judge came to the conclusion that nowhere in the counter filed by the defendants, it is stated that they have not interfered or caused obstruction for enjoyment of the schedule property by the plaintiff. Therefore, the defendants and their men were causing obstruction for enjoyment of the schedule property by the plaintiff and hence, police aid was granted.

8. In the decision relied on by the learned counsel for the petitioners herein in **NAGAMANI'S** case (1 supra), certain guidelines have been specified by a Division Bench of this Court for granting police aid for guidance of all civil Courts, wherein it was held thus:

“(i) When the allegations are made by the party obtaining an order of injunction, that the said order has been violated, an application seeking police protection would not lie. The aggrieved party has to necessarily file execution petition under Order XXI Rule 32 or an application under Order XXXIX Rule 2A of CPC seeking attachment and/or arrest of the violator for contempt of the Court.

(ii) When a petition is filed seeking police protection, whether or not to exercise of power under Section 94 (e) or Section 151 of CPC, the facts alleged or pleaded, an order for police protection cannot be passed in a routine manner.

(iii) If an application is filed by the person obtaining *ad interim* injunction alleging that there is a threat of breach, disobedience or violation of the order of injunction, subject to proof, the Court has power to order police protection imposing necessary conditions not to interfere with the life and liberty, and rights of the opposite party.

(iv) The standard of proof required in the case of threat of disobedience of injunction or alleged breach, disobedience or

violation of an order of injunction should be very high and it should be in between the standard of beyond reasonable doubt and a standard of balance on probabilities. Be it noted, as held by Supreme Court in *Chottu Ram v Urvashi Gulati* (23001) 7 SCC 530 and *Anil Ratan Sarkar v Hiral Ghosh* (2002) 4 SCC 21, in all cases of contempt the plea should be proved applying the very high standard of proof and not mere affidavits or self-serving statements of the party seeking the intervention of the Court.”

Clause (3) of the above decision would clearly go to show that police protection can be granted when there is a threat of breach, disobedience or violation of the order of injunction. It is averred in the affidavit filed in support of the application that there was a threat by the defendants and the same has been accepted by the trial Court. Therefore, the order under challenge does not suffer from any infirmities so as to call for interference by this Court.

9. Accordingly, the Civil Revision Petition is dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this revision shall stand closed.

K.C.BHANU, J

DATED: 20-02-2015

Hsd

[\[1\]](#) 2010 (2) ALD 41 (DB)