

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.1947 of 2015

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ORDER

This civil revision petition arises out of the injunction order granted by the learned I Additional Junior Civil Judge, Bhimavaram in I.A.No.141 of 2015 in O.S.No.63 of 2015. Though this order is appealable under Order 43 Rule 1 C.P.C., this Court is of the opinion that sufficient grounds are made out for exercise of superintendence powers under Article 227 of the Constitution, and the petitioner need not be relegated to the alternative appellate remedy.

2. Perusal of the injunction granted by the Court below reflects that it was an *ex parte* injunction. However, the order is terse to the point of being cryptic and reads as under;

“Whereas, upon motion made into this Court by the above named petitioners/plaintiffs and upon perusing the petition affidavit and other material papers on record and upon hearing the arguments of Sri A. Venkateswara Raju, Counsel for the petitioners/plaintiffs, the Court doth order that;

Ex-parte ad-interim injunction is granted in favour of the petitioners/plaintiffs restraining the respondents and their men, followers from ever entering into the plaint schedule site or in any way interfering with the petitioners/plaintiffs possession and enjoyment over the plaint schedule site till filing of counter.

Issue notice to the respondents/defendants call on 02.06.2015.

The petitioners/plaintiffs shall comply with the provisions of Order 39 Rule 3 C.P.C.

Given under my hand and the seal of this Court, this the 4th day of May, 2015”.

3. When the Court below saw it fit to grant an injunction without giving notice to the opposite party, it necessarily had to record the reasons for its opinion that the object of granting an

injunction would be defeated by delay. This is as per the proviso to Order 39 Rule 3 C.P.C. However, the trial Court completely lost sight of this statutory requirement and passed the order aforesaid without indicating any reasons. The order therefore cannot be sustained as it is in complete and utter violation of the statutory requirement.

4. The Civil Revision Petition is therefore allowed and the order

dated 04.05.2015 passed by the learned I Additional Junior Civil Judge, Bhimavaram, in I.A.No.141 of 2015 in O.S.No.63 of 2015 is set aside. The trial Court shall take up the I.A. for hearing afresh now that the opposite party has already been put on notice and pass appropriate orders thereon in accordance with law.

Pending miscellaneous petitions shall also stand closed. No order as to costs.

SANJAY

KUMAR, J

20th July, 2015.
sj