

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

C.R.P.No.4607 of 2014

ORDER

After hearing the learned counsel appearing for the petitioner, this Court is inclined to disposed of the Civil Revision Petition. In spite of service of notice, the respondents failed to represent before this Court.

This Civil Revision Petition is directed against the order dated 08.09.2014 passed in C.M.A.No.3 of 2014 by the Senior Civil Judge, Bhongir.

The petitioner is the plaintiff. She filed O.S.No.9 of 2013 before the Junior Civil Judge, Ramannapet, along with I.A.No.29 of 2013 for permanent injunction restraining the defendants and their men from interfering with her peaceful possession and enjoyment of the plaint schedule property viz., house bearing No.3-565/1, Ward No.13, Sy.No.321. The trial Court, by order dated 25.10.2013 dismissed the said Interlocutory Application. Challenging the same, the petitioner filed C.M.A.No.3 of 2014 before the Senior Civil Judge, Bhongir, who dismissed the same by confirming the order passed by the trial Court, observing as under:

“The petitioner relied on Ex.P1 to P8. The Ex.P2 is the certified copy of pahani patrik for the year 2005-2006. The entries therein shows that the suit Sy.No.321 admeasuring Ac.0.36 guntas stood in the name of one Chnthakindi Ramulu, who is the vendor of the petition schedule property to the petitioner under Ex.P1. But the possession column No.13 shows that the Primary Health Centre to the extent of Ac.0.12 guntas and residential houses in the remaining Ac.0.24 guntas. The very entry in the above said Ex.P2 shows that the vendor of the petitioner was not in possession of any land as on the date of selling of the land in Ex.P1. Thus, obtaining permission from the Gram panchayath under Ex.P3 showing the ownership certificate under Ex.P8 by the petitioner does not carry any evidentiary as per documentary evidence in Ex.P2. Hence, the petitioner

failed to prove her case that she is in possession of the petition schedule property as on the date of filing of the main suit and the petition.

The lower Court appreciated the documentary evidence available on record in a proper manner. Thus, the impugned orders passed by the trial Court does not suffer from any irregularity. Hence, the point is answered accordingly.

In the result, the Civil Miscellaneous Appeal is dismissed with costs by confirming the order passed in I.A.No.29 of 2013 in O.S.No.09 of 2013, dated 25.10.2013 on the file of the Court of the Junior Civil Judge, Ramannapet.”

Learned counsel appearing for the petitioner submits that though the petitioner filed Exs.P1 to P8 before the trial Court, the trial Court has not considered the same, and relied on only Ex.P2, and dismissed the appeal. He further submits that even as per the order of the lower appellate Court in Ex.P2 an extent of 0-12 guntas were shown as Primary Health Center and the remaining extent of Ac.0-24 guntas were shown as residential houses in Column No.13. The lower appellate Court dismissed the appeal on the ground that the vendor of the petitioner was not shown in possession of any land as on the date of selling of the land in Ex.P1. Learned counsel further submits that since Ac.0-24 guntas was covered by various residential houses and in the said extent, the land of the petitioner was situate, the lower appellate Court has not taken into consideration the other documents showing the possession of the petitioner. He further submits that though the petitioner was in possession of the land even prior to the sale deed under Ex.P1 and taxes were being paid, the said aspect of the matter was not considered by the lower appellate Court.

Having regard to the facts and circumstances of the case, the order dated 08.09.2014 passed in C.M.A.3 of 2014 by the Senior Civil Judge, Bhongir is set aside and the matter is

remanded to the Senior Civil Judge, Bhoingir, for disposal of the appeal in accordance with law, within a period of three months from the date of receipt of a copy of this order.

Accordingly, the Civil Revision Petition is allowed.

Miscellaneous petitions, if any, pending in this Civil Revision Petition shall stand closed.

JUSTICE A.RAMALINGESWARA RAO

30th January, 2015
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