

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2317 OF 2015

DATED 14th JULY, 2015

Between:

Ukkurthi Nageswara Rao
and another.

... Petitioners

and

Saripalli Babu Rajendra Vara Prabhakara Rao
and others.

... Respondents

THE HON'BLE SHRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2317 OF 2015

ORDER

The plaintiffs in O.S.No.33 of 2013 on the file of the learned Junior Civil Judge, Chintalapudi, West Godavari District, are the petitioners. The said suit was filed by them seeking a perpetual injunction restraining the defendants, the respondents herein, from interfering with their possession and enjoyment over the suit schedule property. They filed I.A.No.168 of 2013 in the said suit under Order 39 Rule 1 CPC seeking a temporary injunction against the respondents-defendants. By order dated 04.07.2013, the trial Court dismissed the I.A. The same was confirmed in appeal by the learned II Additional District Judge, West Godavari, Eluru, by order dated 19.03.2015 passed in CMA No.21 of 2013. Aggrieved thereby, the plaintiffs in the suit are before this Court by way of this Civil Revision Petition under Article 227 of the Constitution.

Heard Sri KJV N Pundareekakshudu, learned counsel for the petitioners-plaintiffs, and Sri Manda Adam, learned counsel on caveat for the respondents-defendants.

Perusal of the order passed by the trial Court reflects that the petitioners-plaintiffs claimed to have purchased an extent of Ac.3-98 cents (Ac.1-50 cents sold to the first petitioner/first plaintiff and Ac.1-48 cents sold to the second petitioner/second plaintiff) in R.S.No.174/1A of Pragadavaram Village, Chintalapudi Mandal, West Godavari District on the basis of two registered sale deeds dated 11.02.2013. Their vendor

was one Kanamathareddy Venkata Reddy. Apart from the sale deeds, the petitioners-plaintiffs had no other document in proof of their possession. While so, it was the claim of the respondents-defendants that the first respondent/first defendant purchased an extent of Ac.2-40 cents out of the total extent of Ac.3-98 cents belonging to Kanamathareddy Venkata Reddy in R.S.No.174/1A of Pragadavaram Village under registered sale deed dated 23.03.2007. The adangal pahani for the year 1419F (2009 AD) was produced by them reflecting the name of the first respondent in the column relating to possession as regards the extent of Ac.2-40 cents in R.S.No.174/1A of the village.

The revenue records sought to be relied upon by the petitioners-plaintiffs merely reflected the name of their vendor. This evidence did not help their case as admittedly; the vendor of both parties was one and the same, viz., Kanamathareddy Venkata Reddy. Therefore, there could be no presumption that the entry of the vendor's name in the revenue records indicated the possession of the petitioners-plaintiffs. All the more so, as the document under which the respondents-defendants claimed title, from the very same vendor, was earlier in point of time. As the petitioners-plaintiffs failed to establish their possession over the suit schedule property, the trial Court held that no prima facie case was made out in their favour, much less balance of convenience, and accordingly refused them the temporary injunction sought.

On appeal by the petitioners-plaintiffs, the appellate Court, upon due consideration of all the relevant facts, affirmed the finding of the trial Court that the petitioners-plaintiffs failed to establish their possession over the suit schedule property. The appellate Court observed that there was a cloud over their title in the light of the rival title documents. Holding so, the appellate Court dismissed the appeal.

Sri KJVN Pundareekakshudu, learned counsel, would contend that failure on the part of the respondents-defendants in applying for documents of title under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (for brevity, 'the Act of 1971'), though

they claimed to have purchased a part of the suit schedule property under a registered sale deed dating back to 2007, would indicate the falsity of their claim. He however conceded that except for their sale deeds, the petitioners-plaintiffs had no other document to prove their possession over the suit schedule property.

Sri Manda Adam, learned counsel on caveat for the respondents-defendants, sought to justify the findings arrived at by the Courts below and asserted that no ground was made out for interference in this Civil Revision Petition.

It is a settled position of law that the plaintiff in a suit must succeed on the strength of his own case. In an application for interim injunction, it is for the petitioner therein to establish his *prima facie* case; show that the balance of convenience is in his favour; and that irreparable loss and injury would be caused to him if an injunction is not granted in his favour. The first and foremost requirement to prove a *prima facie* case in relation to immovable property would be for the petitioner to prove his possession over the same. As rightly found by both the Courts below, the petitioners-plaintiffs miserably failed at the threshold on this count.

In that view of the matter, the petitioners-plaintiffs failed to establish their entitlement for grant of an injunction in their favour. This Court therefore finds no irregularity in the orders passed by the Courts below holding to that effect.

The Civil Revision Petition is devoid of merit and is accordingly dismissed. Pending miscellaneous petitions shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

14th JULY, 2015

PGS