

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

Civil Revision Petition No.3584 of 2014

Between:

Malla Reddy Shankar Reddy and another

... Petitioner(s)

and

Koganti Madhusudhan Rao and three others.

... Respondent (s)

DATE OF JUDGMENT PRONOUNCED: ***03rd August, 2015.***

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

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| 1 | Whether Reporters of Local newspapers
may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be
marked to Law Reports/Journals | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? | Yes/No |

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**THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA
RAO**

Civil Revision Petition No.3584 of 2014

ORDER :

This Civil Revision Petition is filed under Article 227 of
the Constitution of India challenging the order dt.17.04.2014 in

CMA.No.104 of 2007 of the Motor Vehicle Accident Tribunal-cum-XI Additional District Judge (FTC), R.R.District reversing the order dt.09.02.2007 in I.A.No.2491 of 2006 in O.S.No.2658 of 2006 of the II Additional Senior Civil Judge, R.R.District.

2. Petitioners herein are the defendants in the above suit. The respondents/plaintiffs filed the said suit for perpetual injunction restraining the petitioners from interfering with their peaceful possession and enjoyment of the land admeasuring Ac.4.16 gts., in survey No.194/1 of Begumpet Village, Balanagar Mandal, Rangareddy District within specific boundaries.

3. In the said suit, they filed I.A.No.2491 of 2006 under Order 39 Rules 1 and 2 CPC for grant of ad-interim injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the plaint schedule property.

4. In the said application, the respondents contended that under a registered sale deed. Dt.05.11.1967 executed in their favour by one Mirza Ali Moosa Raza, they had purchased land of an extent of Ac.8.00 gts; although the sale deed reflects only Ac.7-00 gts, on actual measurement of the land within the boundaries as shown in the document, the total extent came to Ac.8-00 gts; and they obtained exemption under the provisions of Urban Land (Ceiling & Regulation) Act,

1976 from the Government. They alleged that some portion of the said land had been encroached leaving Ac.4.16 gts as balance and that the petitioners were illegally trying to dispossess them from the plaint schedule property, and therefore, they filed the suit and the I.A. Reference was also made to proceedings of the Tahsildar, Hyderabad Urban in file No.A1/4431/7dt.24.04.1977 and order dt.04.06.1980 in file No.C /5330/79 of the RDO, Chevella, on the basis of which the respondents contended that mutation of pattas was made in their favour and Faisal Patti was also issued to them.

5. Counter-affidavit was filed by the petitioners to the said application. The 1st petitioner contends that land in survey No.194 is Paigah property belonging to Kurshid Jah Paigah; that the land was in the custody of the Court of Wards; the sale deed being relied upon by the respondents is a brought up document without any legal validity; the alleged mutation orders obtained by the respondents are all false and fabricated; and that the proceedings under the provisions of A.P. (Telangana Area) Abolition of Inams Act, 1955 were pending. A reference was also made to certain writ proceedings in the counter affidavit filed by the 1st petitioner. Petitioners denied that Mirza Ali Moosa Raza had any right in respect of the subject property and alleged that they are in joint possession of the land on behalf of the descendants of Paigah such as Saheb Zadi Asmathunnisa Begum, D/o late

Nawab Fareeduddin Khan known as Fareed Nawaz Jung and eight others.

6. By order dt.09.02.2007, the trial Court dismissed the said I.A. holding that since the Government is claiming the plaint schedule property as Inam land; some of the descendants of Paigah are also claiming right and possession in respect of the plaint schedule property; so prima facie title of the respondents in respect of the suit schedule property can be decided only after trial. It further held that recent pahanies establishing possession of the property as on the date of filing of the suit, were not filed by respondents. It therefore held that the respondents failed to establish that on the date of filing of the suit, they were in possession of the suit schedule property and that they do not have prima facie title.

7. Challenging the same, the respondents filed CMA.No.104 of 2007 before the Motor Vehicle Accident Tribunal-cum-XI Additional District Judge (FTC), R.R.District.

8. In the said appeal, the respondents filed Exs.P45 to P56. Petitioners herein remained ex parte.

9. On 17.04.2014, the said appeal was allowed setting aside the order in I.A.No.2491 of 2006 passed by the trial Court and granting temporary injunction in favour of the respondents restraining the petitioners from interfering with

their possession and enjoyment of the plaint schedule property till disposal of the suit.

10. The lower appellate Court noted that Ex.P45 to P49 were pahanies for the years 2001-2006; Ex.P50 is Faisal Patti; Ex.P51 is an order dt.23.02.2008 of the Special Grade Deputy Collector & Revenue Divisional Officer, Chevella Division, Ranga Reddy District which was confirmed by the Collector-I Ranga Reddy District by order dt.23.08.2008 under Ex.P52. It held that Exs.P51 to P53 indicate that the Government had admitted that it had no claim over the subject land claimed by the respondents and also rejected the claim of the petitioners/successors of Paigah and declared that the petitioners had no right over the plaint schedule property. It further held that the revenue officials have clarified in Ex.P51 to P.53 that the respondents were in possession and enjoyment of the subject lands and therefore the respondents were able to substantiate their title as well as possession over the plaint schedule property. It held that if interim injunction is not granted in their favour, the petitioners may try to interfere with the possession and enjoyment of the respondents.

11. Challenging the same this Revision is filed.

12. Counsel for petitioner contended that the lower appellate Court ought not to have received additional evidence that too after setting the petitioners as ex parte in the appeal.

13. I am unable to agree with the said submission. For reasons best known to the petitioners, they remained ex parte in the appeal. It is also not the case of the petitioners that on the very date on which they were set ex parte in the appeal, the appeal came to be decided. Since the petitioners had done nothing for setting aside the orders setting them ex parte in the appeal set aside, they cannot blame the lower appellate Court for hearing the appeal after receiving the documents Exs.P45 to P56 filed by the respondents and then deciding the appeal by referring to them.

14. The trial Court had expressed a doubt as to the title of the petitioners on the ground that Government was claiming the plaint schedule property as Inam land and observing that there is a rival claim by the descendants of the Paigah in respect of the same land, but the lower appellant Court, having regard to the statutory orders passed under the provisions of the A.P.(Telangana Area) Abolition of Inams Act, 1955 under Exs.P51 and 52 held that the Government itself had admitted that it had no claim over the land of Ac.4.16 guntas claimed by the respondents (which includes the suit schedule property) and the claim of the petitioners as successors of Paigah was also rejected therein.

15. Counsel for respondents has taken me through Exs.P51 and 52. After perusing the same, I am satisfied that

the lower appellate Court has correctly interpreted the said orders.

16. The trial Court had also held that there were no recent pahanies placed before it by the respondents to establish their possession, but Ex.P45 to 49 filed before the lower appellate Court by the respondents pertain to the year 2001 to 2006 and they relate to the period just prior to the filing of the suit. They also established possession of the respondents over the plaint schedule property.

17. Therefore, I do not find any error of jurisdiction in the order passed by the lower appellate Court in setting aside the order of the trial Court and granting temporary injunction in favour of the respondents pending disposal of the suit.

18. In this view of the matter, I do not find any merit in this Revision warranting interference by this Court under Article 227 of the Constitution of India.

19. The Civil Revision Petition is accordingly dismissed. There shall be no order as to costs.

20. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

03rd August, 2015.

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