

THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

Civil Revision Petition No.2657 of 2015

ORDER:

Heard both sides.

2. The point for determination is:

"Whether there are merits in this CRP to allow?"

3. **POINT:** It is seen that admittedly the suit schedule property was purchased in the name of second respondent herein under registered Sale Deed dt. 16.12.2000 and thereafter first respondent herein purchased the same property from second respondent under registered Sale Deed dt. 07.09.2011. It is the case of first respondent herein that she purchased the vacant land from second respondent for a valuable consideration of Rs.1,46,000/- and took physical possession and later she raised a thatched hut to some extent over the plaint schedule land for tethering her cattle and thus she has been in physical possession of the said property. The case of the first respondent is that first petitioner herein is the daughter of petitioner Nos. 2 and 3 and daughter-in-law of second respondent and without any manner of right, title and interest in the said property, all the petitioners tried to trespass into the suit property and hence, she filed O.S.No.310 of 2011 on the file of Senior Civil Judge, Srikakulam, seeking perpetual injunction against them.

4. The contention of the first petitioner herein is that suit schedule land was purchased by her parents nominally in the name of second respondent at the time of her marriage and she was never in possession and enjoyment of the same and she has no right, title and interest to sell it to the first respondent. It is her further contention that she is in peaceful possession and enjoyment of the plaint schedule property by raising a thatched hut in the said land and in fact she begot two children while residing in that house. It is also her case that recently some family disputes arose between herself and her husband and also the second respondent and she gave complaint against her husband—Rajagopalrao before Women Police Station, Srikakulam, who registered a case in Cr.No.78 of 2011 and the same is pending and due to it, her husband and second respondent bore grudge against her and they colluded with first respondent and created a nominal Sale Deed in favour of first respondent, but the first respondent has never been in possession of the suit property.

5. In the light of the above contentions, both the Courts below taking into consideration the admission of the petitioners about the purchase of suit property in the name of second respondent and her selling the property to first respondent, granted injunction in favour of first respondent.

6. Now in the CRP, it is vehemently contended on

behalf of the petitioners that the first respondent could not prove her possession over the suit schedule property and on the other hand through Exs. R.1 and R.2, the first petitioner could establish that she has been in possession of the suit property and therefore, the Court below ought not to have granted injunction in favour of the first respondent.

7. A perusal of the respective documents of the parties would show that Ex. P.1 is the Sale Deed obtained by the first respondent from 2nd respondent and Ex.P.2 is the link document i.e., the sale deed obtained by the second respondent from one Girada Ramu. Ex.P.3 is a copy of Caveat petition lodged by the first petitioner. Ex.P.4 is the Voters List showing that the first petitioner was recorded as Voter in Dandemvalasa of Amadalavalasa Mandal, whereas the suit property is situated in Latchayyapet village of Burja Mandal. These are the documents filed by the first respondent/plaintiff to seek injunction, whereas, on behalf of the petitioners herein, Exs.R.1 and R.2 were marked. Ex.R.1 is the Inland Letter sent by L.I.C showing her residential address at Latchayyapet village. Ex.R.2 is a bunch of photos showing as if she is in possession of a cattle shed and a house.

a) It appears, considering mainly that the title deed is admittedly in favour of first respondent herein, both the Courts below granted injunction in her favour. It is true that

first respondent has not produced any Panchayat records like tax receipts etc., in support of her Sale Deed. However, having regard to the fact that admittedly the suit property originally stood in the name of 2nd respondent and 1st respondent having purchased the same from her and also having regard to the fact that first petitioner was recorded as the resident of a different village of Dandemvalasa in Amadalavalse Mandal, it can be said that 1st respondent could establish the title and possession in her favour. Her case stands on better footing than 1st petitioner in view of admitted title in her favour. In that view of the matter, EXs. R.1 and R.2 cannot be taken into consideration. Accordingly, I find no merits in the C.R.P and hence, it is liable to be dismissed.

8. In the result, the C.R.P is dismissed, but in the circumstances, without costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

U. DURGA PRASAD RAO, J

Date: 26.10.2015

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