

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP. Nos.2218 & 2337 OF 2011

COMMON ORDER:

These two Civil Revision Petitions arise between the same parties and out of the same suit OS.No.1813 of 2009 on the file of the VIII Additional Senior Civil Judge, Ranga Reddy District at L.B. Nagar. Therefore, they are being disposed of by this common order.

2. The petitioners herein are defendants 1 to 3 in the above suit. The respondents 1 and 2 filed the said suit against the petitioners and 3rd respondent for perpetual injunction restraining the respondents 1 and 2 from interfering with the alleged peaceful possession and enjoyment of the suit schedule property.

3. The subject matter of the suit is an extent of Ac.3-13 guntas in survey Nos.651, 652, 653, 654 and 645 of Shamshabad Village and Mandal, Ranga Reddy District.

4. They contended that they had purchased the said land with possession under a registered Agreement of Sale-cum-GPA dt.29.07.2009 from one Saranga Prakash for a valuable consideration and that he had acquired the same under a registered document dt.16.07.2009 from Saranga Shakuntala Devi and four others as a gift. They claimed that they are in possession and enjoyment of the said property and that they also obtained mutation in the revenue records apart from pattadar pass books and title deeds; that they had constructed a room and watchman room in the said property and had also obtained electricity connection; but the defendants/petitioners on 29.08.2009 and 05.09.2009 attempted to forcibly occupy the subject property.

5. Petitioners filed written statement through 1st petitioner opposing the suit claim and alleged that the plaintiffs/respondents 1 and 2 at the behest and instance of one S.Prakash, who is the vendor of the petitioners, intended to encroach the suit schedule property. They claimed that an extent of Ac.1.27 guntas of land was sold by said S.Prakash in favour of 2nd petitioner, who is the wife of the 1st petitioner under a registered sale deed dt.31.1.2005 and balance land of Ac.1.26 guntas was sold in favour of 3rd petitioner under another registered sale deed dt.31.10.2005. They alleged that the said S.Prakash has got the property under a registered Gift Settlement Deed dt.06.05.2005 executed by his mother Shakuntala Devi and that a rectification deed dt.29.10.2009 was also executed correcting the survey numbers. They also claimed that mutation was affected by Thasildar in their name in the revenue records and that pattadar passbooks and title deeds were issued to them. They also contended that once there was a sale by S.Prakash in favour of petitioners 2 and 3, he could not have executed an Agreement of Sale-cum-GPA in favour of respondents 1 and 2.

6. Along with the suit, the respondents 1 and 2 filed I.A.No.2142 of 2009 seeking a temporary injunction pending suit against the petitioners restraining them from interfering with their peaceful possession and enjoyment of the suit schedule property, taking pleas similar to those raised in the plaint.

7. Pending the above I.A., as a counter blast to the same, the petitioners herein filed I.A.No.2228 of 2009 seeking interim injunction against the respondents 1 and 2 pending disposal of the suit.

8. Before the trial Court, respondents 1 and 2 marked Exs.P1 to P57 in I.A.No.2142 of 2009 filed by them, while the petitioners herein marked Exs.R1 to R22.

9. By order dt.22.02.2010, the trial Court allowed I.A.No.2142 of 2009 granting interim injunction in favour of respondents 1 and 2 restraining the petitioners from interfering with the peaceful possession and enjoyment of the respondents 1 and 2 over the suit schedule property till disposal of the suit. It held that respondents 1 and 2 have established their possession over the suit schedule property.

10. Consequently, the trial Court dismissed I.A.No.2228 of 2009 filed by the petitioners by a separate order in view of its order of allowing I.A.No.2142 of 2009.

11. The petitioners preferred CMA.No.45 of 2010 against the order in I.A.No.2142 of 2009 and CMA.No.45 of 2010 as against the order in I.A.No.2228 of 2009.

12. By a common order dt.03.03.2011, the Special Court of Sessions-cum-Additional District and Sessions Judge, Ranga Reddy District at L.B. Nagar, partly allowed CMA.No.45 of 2010. While confirming the injunction in favour of the respondents 1 & 2 and directing the petitioners not to interfere with the possession and enjoyment of the respondents 1 and 2 of the suit schedule property, it however directed respondents 1 and 2 not to alienate the property or change the physical features or change the same into house plots or change the shape of the property, till disposal of the suit.

13. Challenging the order in CMA.No.74 of 2010 the petitioners filed CRP.No.2218 of 2011 and challenging the order in CMA.No.45 of 2010 they filed CRP.No.2337 of 2011.

14. Sri S.Niranjan Reddy, Counsel for the petitioners contended that the orders passed by both the courts below granting temporary injunction in

favour of respondents 1 and 2 and denying injunction to the petitioners and to the 3rd respondent, is contrary to law and that the said findings are not based on the evidence on record and therefore require to be set aside. He also contended that both the petitioners as well as respondents 1 and 2 are claiming title through the same S.Prakash and therefore *prima facie* the title of the vendor should have been first adjudicated by the Courts below. In particular, he contended that the said S.Prakash having once sold the property to the petitioners did not have any substantive title or right in the suit schedule property and therefore he could not have conveyed any title in favour of subsequent purchasers such as respondents 1 and 2. He also contended that respondents 1 and 2 wrongly mentioned the boundaries in their document in collusion with said S.Prakash and therefore the Agreement of Sale-cum-GPA relied upon by respondents 1 and 2 is a void and illegal document.

15. Sri Ghanta Sridhar, counsel for the respondents however refuted the above contentions and supported the orders passed by both the Courts below and prayed to dismiss both the Revisions..

16. I have noted the submission of both sides.

17. From the facts narrated above, it is clear that there has been interim injunction in favour of respondents 1 and 2 against the petitioners from 22.02.2010 in I.A.No.2142 of 2009 till date, since it is not the case of the petitioners that the temporary injunction granted in I.A.No.2142 of 2009 in favour of the respondents 1 and 2 has been suspended pending CMA No.45 of 2010. As stated above, while confirming the injunction in favor of respondents 1 and 2, the lower appellate Court had directed respondents 1 and 2 not to alienate or change the physical features pending disposal of the suit.

18. Therefore for almost 5 ½ years there has been a temporary injunction

in favour of respondents 1 and 2 against the petitioners and there has been no injunction granted either by the trial Court or by the lower appellate Court in petitioners favour during this period.

19. It is stated by both sides that the trial in the suit has commenced.

20. Therefore at this stage, it might not be proper for this Court to consider the matter on merits and set aside the orders passed by both the Courts below in favour of the respondents 1 and 2, particularly when concurrent findings of fact have been recorded by both the Courts that respondents 1 and 2 have been in possession of the suit schedule property on the basis of appreciation of evidence on record.

21. In this view of the matter, I do not intend to consider these Revisions on merits and I deem it fit to direct the trial Court to decide O.S.No.1813 of 2009 on its file as expeditiously as possible, preferably within a period of six (06) months from the date of receipt of a copy of this order. Pending the suit, the petitioners shall not interfere with the possession and enjoyment of the respondents 1 and 2 of the suit schedule property and respondents 1 and 2 shall not alienate the suit schedule property or change physical features or change the same into house plots or change the shape of the property.

22. With the above direction, these Civil Revision Petitions are disposed of. There shall be no order as to costs.

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

M.S. RAMACHANDRA RAO, J

30th September, 2015.

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