

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3621 of 2015

ORDER:

Heard the learned counsel for petitioner and the learned counsel for respondent.

2. The present Civil Revision Petition is filed challenging the order dated 10.09.2014 in C.M.A.No.8 of 2014 on the file of the Court of V Additional District Judge, East Godavari at Rajahmundry (for short, appellate Court) reversing the order dated 11.06.2014 in I.A.No.86 of 2014 in O.S.No.121 of 2014 on the file of the Court of IV Additional Junior Civil Judge, Rajahmundry (for short, trial Court).

3. The petitioner herein is defendant in O.S.No.121 of 2014. The respondent herein filed the said suit seeking permanent injunction restraining the petitioner herein from making any constructions obstructing the passage to the suit schedule property through lane as shown in the rough sketch. Along with the suit, the respondent herein filed I.A.No.86 of 2014 seeking temporary injunction and the same was dismissed, by order of the trial Court dated 11.06.2014. Challenging the same, the respondent herein preferred CMA.No.8 of 2014 before the appellate Court, which passed the following order on 10.09.2014, by setting aside the order of the trial Court.

“ 9. The respondent will not suffer any irreparable loss or injury if injunction is granted against her. The right of the respondent to use the joint lane is not denied by the petitioner. Therefore the petitioner is entitled to injunction to restrain the respondents and her representatives from obstructing the petitioner and his family members from using the joint lane in dispute without obstructing the respondent and her family members from using the said joint lane.

10. In the result, the appeal is allowed setting aside the order of the IV Addl. Junior Civil Judge's Court, Rajahmundry dt.11.06.2014 which was passed in I.A.No.86 of 2014 in O.S.No.121 of 2014 and also the

decree drawn thereon. Consequently the I.A.86 OF 2014 in O.S.121 of 2014 on the file of IV Addl. Junior Civil Judge's Court, Rajahmundry is allowed granting interim injunction restraining the respondent and her representatives from obstructing the petitioner and his family members from using the joint lane which is described in the petition schedule till further orders but the petitioner shall not obstruct the respondent and her family members from using the suit disputed petition schedule joint lane."

4. Since the suit filed by the respondent was for permanent injunction and the right of the petitioner is not disturbed in any manner from using the vacant land pending disposal of the suit, this Court is not inclined to go into the merits of the case at this stage in view of the nature of the order passed by the appellate Court and therefore the Civil Revision Petition is dismissed. But, since the respondent filed a suit for permanent injunction, the trial Court shall endeavour to dispose of the suit as expeditiously as possible, but not later than 30.04.2016. The parties shall cooperate with the trial Court for early disposal of the suit. It is needless to observe that the trial Court, while disposing of the suit, shall not be influenced by any of the observations made by the appellate Court or by the observations made by it in I.A.No.86 of 2014. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 25.11.2015

TJMR