

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.3873 of 2015

ORDER :

The defendants 1 to 3 and 6 are the petitioners herein. The 1st respondent herein filed O.S.No.91 of 2013 on the file of Principal Junior Civil Judge at Mancherial for permanent injunction restraining the defendants from interfering with the peaceful possession and enjoyment of the plaint schedule property measuring Ac.2.26 guntas in Sy.No.36 situated at Kothapally Revenue village of Mancherial Mandal.

2. A written statement was filed by the 6th respondent which was adopted by the other defendants. The Court below framed appropriate issues on 24.06.2014. The evidence of plaintiff was also completed and when the case was coming up for further evidence, at that stage, the defendants 1 to 3 and 6 filed a petition under Order 14 Rule 5 of C.P.C., praying the Court to frame the following additional issues :

1. Whether the registered sale deed filed by the plaintiff of his vendor is null and void in the light of Apex Court Judgment in AIR 2010 SC 296 for the contravention of Sec.47 of A.P. (T.A) Tenancy and Agricultural Lands Act, 1950 ?

2. Whether the order passed by the Revenue Divisional Officer is under challenge in W.P.No.9610/2013 on the file of High Court of A.P. and Telangana State as per the ROR proceedings filed by the plaintiff is considerable ?

3. The said petition was dismissed by the trial Court observing as follows :

“The court already framed the issue that whether the plaintiff is in lawful possession and enjoyment over the schedule property as on the date of filing of the suit. The first issue is a comprehensive issue all additional issues which could be said to be ancillary issues separately need not be framed. Here the case on hand, the evidence of the plaintiff side is already closed and it is coming for

further evidence of defendants, as per the directions of the Hon'ble High Court of Judicature at Hyderabad for the State of Telangana and the State of A.P. in CRP No.196/2015. The material pleas of the parties and the for determining the matters in controversy relating to which evidence was adduced already. Therefore, the question of framing additional issues in respect of the title to the schedule property does not arise in a suit for injunction unless the parties pleaded and denied the title to the schedule property. In the light of discussion, the point is answered in favour of the petitioners and against the respondent.

In the result, the petition is dismissed.”

4. In view of the stage of the proceedings, the order passed by the trial Court on 28.08.2015 is correct. Even otherwise also the additional issues sought to be framed relate to the title and the present suit is only a suit for permanent injunction. In a suit for permanent injunction the court can naturally go into the question of title incidentally at the time of disposal of the suit. There cannot be any apprehension to the defendants on the said point. In the circumstances, the order passed by the lower court is correct and it does not call for any interference.

5. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Revision shall stand dismissed.

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RAMALINGESWARA RAO, J

23rd December, 2015
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HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

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DATED : 23.12.2015

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