

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.1132 of 2015

ORDER:

Heard learned counsel for the petitioner. In spite of service of notice on the respondent, none appeared on his behalf.

2. The petitioner herein is plaintiff in O.S.No.230 of 2007 on the file of the Court of the Principal Junior Civil Judge, Kovur (for short, trial Court). He filed the said suit seeking permanent injunction in respect of Ac.1-22 cents of land in survey No.532/2 of Ragadichelika Village, Kodavaluru Mandal, Nellore District. In the said suit, the petitioner herein filed I.A.No.852 of 2007 for grant of temporary injunction. The trial Court, by its order dated 22.12.2014, granted temporary injunction, after hearing the respondents therein. In order to implement the temporary injunction, the petitioner filed I.A.No.5 of 2015 seeking police protection, but the said application was dismissed, by order of the trial Court dated 23.02.2015 on the ground that CMA.No.2 of 2015 is pending against the order dated 22.12.2014 in I.A.No.852 of 2007, and hence, the order in I.A.No.852 of 2007 has not attained finality. Challenging the said order, the present Civil Revision Petition is filed.

3. The learned counsel for the petitioner submits that no temporary suspension was granted in CMA.No.2 of 2015 in respect of the order dated 22.12.2014 in I.A.No.852 of 2007, and hence, the petitioner is entitled for police protection. Mere pendency of CMA.No.2 of 2015 shall not come in the way of the petitioner from enjoying the benefit of temporary injunction, which was passed after contest, in I.A.No.852 of 2007.

4. This Court is in agreement with the contentions advanced by the learned counsel for the petitioner and, since the impugned order was passed solely on the ground that CMA.No.2 of 2015 was pending, it is set aside and remanded to

the trial Court for passing appropriate orders in accordance with law, within a period of 15 days from the date of receipt of a copy of this order, after hearing counsel for both the parties.

5. Accordingly, the Civil Revision Petition is allowed. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 04.12.2015

Note: Issue CC by 08.12.2015

B/o. TJMR