

**THE HON'BLE SRI JUSTICE M.S. RAMACHANDRA
RAO**

CIVIL REVISION PETITION No.1130 of 2014

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ORDER:
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This Civil Revision Petition is filed challenging the order

dt.18-03-2013 in C.M.A. No.16 of 2012 of the Principal District Judge, Karimnagar confirming the order dt.19-01-2012 in I.A.No.932 of 2011 in O.S.No.282 of 2011 of the Principal Junior Civil Judge, Karimnagar.

2. The petitioner herein is 2nd defendant in the suit. The 1st respondent/plaintiff filed the said suit for a perpetual injunction restraining the petitioner and respondent Nos.2 and 3 from interfering with her alleged possession and enjoyment of the plaint schedule properties.

3. The petitioner as well as 2nd respondent are brothers of 1st respondent and 3rd respondent is the son of 2nd respondent. They are children of one Laxmi Bai and Rama Rao.

4. The 1st respondent contended that the suit schedule

property belongs to her mother Laxmi Bai and she executed Ex.P-1 gift settlement deed in her favour on 14-12-2007 delivering possession of the suit schedule properties to her. She alleged that petitioner and respondent Nos.2 and 3 were interfering with her possession and enjoyment of the suit schedule property.

5. She also filed I.A.No.932 of 2011 seeking temporary injunction restraining petitioner and respondent Nos.2 and 3 from interfering with her possession of the land pending disposal of the suit.

6. Written statement was filed by petitioner opposing the suit claim contending that the suit schedule properties did not belong to their mother Laxmi Bai; that the property is ancestral property and during the lifetime of late Rama Rao, the petitioner and 2nd defendant and late Rama Rao had partitioned the joint family properties. They alleged that the suit schedule properties fell to the share of late Rama Rao. They however stated that he died intestate, but their mother obtained pattaddar pass book and title deed from the Revenue authorities behind the back of petitioner and 2nd defendant. They alleged that they challenged the same before the Revenue Divisional Officer in appeal, but the appeal was rejected and that a Revision is pending before the Joint Collector,

Karimnagar. They contended that petitioner, 2nd respondent and their mother were jointly enjoying the land and no injunction can be sought against co-owners.

7. Counter affidavit on the same lines was filed in I.A.No.932 of 2011.

8. Initially, the Court below on 27-07-2011 granted *ad interim* injunction and the same was made absolute on 19-01-2012

9. Challenging the same, the petitioner as well as respondent Nos.2 and 3 filed appeal C.M.A.No.16 of 2012 before the Principal District Judge, Karimnagar. He also confirmed the order passed by the trial Court on 18-03-2013.

10. Revision was filed before this Court in April, 2014 one year later, and on 11-04-2014, *status quo* was directed to be maintained by this Court while ordering notice before admission.

11. Thus, admittedly from 27-07-2011 till 11-4-2014, there was an interim injunction subsisting in favour of 1st respondent since it was not the case of petitioner that the said injunction had been suspended pending appeal. Therefore, the *status quo* granted on 11-04-2014 by this Court has to be understood to imply that the possession

of

1st respondent has to be maintained.

12. Since the finding of the both the trial Court as well as the lower appellate Court was that 1st respondent was in possession of the suit schedule properties by virtue of Ex.P-1 sale deed and Exs.P-2 and P-3 pahanis and since 1st respondent's possession has been protected from 27-07-2011 till today 31-08-2015, for more than 4 years, I am of the opinion that at this stage it is not proper to interfere with the alleged possession and enjoyment of 1st respondent pending suit. Although the learned counsel for petitioner contended that the petitioner as well as respondent Nos.2 and 3 are co-owners and no injunction can be granted against a co-owner and that Laxmi Bai, the mother of parties, had no authority to execute Ex.P-1, I am of the opinion that these issues can be gone into in the suit and it is not necessary to express any opinion thereon in this Revision.

13. Therefore, the Civil Revision Petition is dismissed directing the Principal Junior Civil Judge, Karimnagar to decide O.S.No.282 of 2011 on his file as expeditiously as possible preferably within a period of six (06) months from the date of receipt of a copy of this order uninfluenced by

any observations made in its order in I.A.No.932 of 2011 or of the order of the Principal District Judge, Karimnagar in C.M.A.No.16 of 2012 or by this Court in this Revision.
No costs.

14. As a sequel, miscellaneous petitions pending if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 31-08-2015

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