

THE HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

CRP No.4777 OF 2015

ORDER ::

This civil revision petition is filed against the order dated 26-08-2015 passed in CMA No.36 of 2011 by the II Addl. District Judge, Kurnool at Adoni, confirming the order dated 29-09-2011 passed in IA No.1099 of 2010 in OS No.264 of 2010 by the Senior Civil Judge, Adoni, Kurnool District, dismissing said IA filed under Order 39, Rules 1 and 2 CPC for grant of temporary injunction, pending disposal of the suit.

2. Revision petitioner is plaintiff in the suit OS No.264 of 2010 and the suit was filed for permanent injunction in respect of suit schedule property. Along with the suit, the plaintiff also filed an application being IA No.1099 of 2010 seeking temporary injunction, pending suit. The trial Court, after considering the documents, prima facie, came to the conclusion that though under Ex.P-1 'D' form patta was granted to the petitioner in the year 2004 in respect of the suit schedule land, in the year 2005 that patta was cancelled under Ex.R-6 and subsequently patta was granted under Ex.R-4 in favour of the respondent-defendant in the year 2009 and the documents filed would indicate that after grant of patta under Ex.R-4, the respondent-defendant has been in possession of the suit

schedule land, therefore, refused to grant injunction. The lower appellate Court also on re-appreciation of the evidence came to the same conclusion and refused injunction by confirming the order of the trial Court. Hence this civil revision petition.

3. Learned counsel for the petitioner submits that both the Courts below have not considered the evidence adduced by the petitioner-plaintiff in the proper perspective and erred in refusing to temporary injunction and, therefore, the orders passed by the Courts below are liable to be set aside. On the other hand, learned counsel for the respondent-defendant made submissions in support of the orders passed by the Courts below. It is stated that both the Courts below have considered the evidence adduced by the parties, and after appreciating the documents, particularly Ex.R-6 where there is an entry relating to the cancellation of the patta granted to the petitioner; and under Ex.R-4, subsequently granted to the respondent, *prima facie*, came to the conclusion that the respondent-defendant is in possession of the suit schedule property and the petitioner is not in possession of the property. That being a concurrent finding of fact recorded by both the Courts below cannot be disturbed in exercise of jurisdiction under Article 227 of the Constitution, unless it is pointed out that the Courts below have considered irrelevant and ignored the relevant material in coming to such conclusion.

4. In the circumstances, the civil revision petition fails and it is accordingly dismissed. However, the trial Court shall endeavour to dispose of the suit expeditiously as the suit pertains to the year 2010, not later than six months from the date of receipt of a copy of this order. Miscellaneous petitions, if any pending in this case also stand dismissed. There shall be no order as to costs.

A.RAJASHEKER REDDY, J

Dated:19-11-2015
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