

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No.1634 of 2015

Date: 09.06.2015

Between:

Yarabolu Girijamma,
Chennai.

.... Petitioner

And

Chintalapati Venkata Bhima Raju,
West Godavari District.

... Respondent

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION No. 1634 of 2015

ORDER:

This Civil Revision Petition was filed by the plaintiff in O.S.No.8 of 2015 on the file of the learned Special Judge for Trial of Cases under SCs and STs (POA) Act-cum-VIII Additional District and Sessions Judge, West Godavari, Eluru. The petitioner/plaintiff filed I.A.No.57 of 2015 in the said suit under Order XXXVIII Rule 5 C.P.C read with

Section 151 C.P.C seeking attachment before judgment of the petition schedule property belonging to the respondent/defendant. The trial Court dismissed the said I.A taking note of the undertaking given by the respondent/defendant in his affidavit dated 23.01.2015 and directing the respondent/defendant not to alienate the petition schedule property until disposal of the suit.

Heard Sri Yallabandi Ramatirtha, learned counsel for the petitioner and Sri Y. Vivekananda Swamy, learned counsel on caveat for the respondent/defendant.

The contention of Sri Yallabandi Ramatirtha, learned counsel, is that the undertaking given by the respondent/defendant is not in the prescribed format i.e., Form No.6 appended to the Code of Civil Procedure, 1908, relating to a security for the production of the property (Order XXXVIII Rule 5).

However, this Court is of the opinion that the direction given by the trial Court pursuant to the undertaking given by the respondent/defendant by way of an affidavit would amply protect the interest of the petitioner/plaintiff.

Sri Yallabandi Ramatirtha, learned counsel, would further state that violation of the undertaking would only result in action being taken against the respondent/defendant and that his client would be left high and dry. However, it is noticed that the trial Court has not merely recorded the undertaking given by way of affidavit dated 23.01.2015, but acting thereupon, issued a positive direction to the respondent/defendant not to alienate the petition schedule property till the disposal of the suit. In the event there is any violation of such direction, it is not as if the trial Court would be powerless to take appropriate action applying the doctrine of *lis pendens* and protect the interest of the petitioner/plaintiff. The apprehensions voiced by the petitioner/plaintiff in this regard are therefore found to be without basis.

The Civil Revision Petition is devoid of merit and is accordingly dismissed.

Pending Miscellaneous Petitions shall also stand dismissed. No costs.

SANJAY KUMAR, J

Date: 09.06.2015

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