

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

**CIVIL REVISION PETITION No.3583 of 2010**

-

-

**ORDER:**

-

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.26-10-2009 in I.A.No.1090 of 2009 in I.A.No.719 of 2008 in O.S.No.581 of 2008 of the Additional Junior Civil Judge, Rajendranagar, Ranga Reddy District.

2. The petitioners herein had filed O.S.No.579 of 2007 before the Principal Junior Civil Judge, Ranga Reddy District at L.B. Nagar for a perpetual injunction restraining the respondents from interfering with their alleged peaceful possession and enjoyment of the plaint schedule property.
3. Along with the suit, they filed I.A.No.585 of 2007 under Order XXXIX Rule 1 CPC seeking an *ad interim* injunction restraining the respondents from interfering with their possession and enjoyment of the plaint schedule property till disposal of the main suit.
4. On 26-06-2007 in I.A.No.585 of 2007, *ad interim* injunction was granted to the petitioners for a short period.
5. Later the said suit was transferred to the Court of Additional Junior Civil Judge, Rajendranagar, Ranga Reddy District and renumbered as O.S.No.518 of 2008. I.A.No.585 of 2007 was also renumbered as I.A.No.719 of 2008.
6. It appears that the injunction order was not extended

subsequently and taking advantage of it, the respondents again started interfering with the possession of petitioners. Therefore, at the request of petitioners in I.A.No.719 of 2008, the interim injunction granted on 26-02-2007 was extended on 04-03-2009 till 01-04-2009. It was later extended till 15-04-2009. The said order recorded that the respondents and their counsel were called absent and there was no representation on their behalf. However, the petitioners did not immediately seek extension of the interim orders therein after they expired on 15-04-2009. So, again it appears that the respondents tried to interfere with the possession and enjoyment of the petitioners over the subject property. The petitioners were therefore constrained to file I.A.No.1090 of 2009 to extend the *ad interim* orders passed in I.A.No.719 of 2008 on 04-03-2009.

7. Counter affidavit was filed to this application by respondents opposing extension of *ad interim* orders.
8. By order dt.26-10-2009, the Court below dismissed I.A.No.1090 of 2009 stating that the trial in the suit had commenced and chief affidavit of P.W.1 was filed. It noticed that the interim order originally granted was extended from time to time and the last extension ended on 15-04-2009; that thereafter the petitioner had reported ready in the suit; and since the interim order was not in force on that day and a memo filed on 31-07-2009 seeking extension of the interim order was refused, and another I.A. seeking police protection was also dismissed, there was no necessity to allow the petition. It observed :

*"Interim orders will be passed exparte without hearing both sides at the initial stage to safeguard the interest of the petitioner at the initial stage and after appearance of the respondent and filing*

*counter the petition requires to be disposed on merits and there is no reason to extend the orders passed ex parte., especially when the suit is coming for the evidence of P.W.1. If at all the petitioners intend to have an order, they can proceed with the trial and get the suit disposed of at the earliest time. This Court finds no reason to allow the petition. The petition is liable to be dismissed.”*

9. Challenging this order, this Revision is filed.
10. The learned counsel for petitioners contended that it was incumbent on the part of the Court below to decide the application for temporary injunction within 30 days as mandated by Order XXXIX Rule 3A CPC, and instead of doing so, the Court below extended the interim order granted on 26-02-2007 from time to time till 15-04-2009 and thereafter suddenly declined to do so on the pretext that the trial has commenced. He also contended that the reasoning of the Court below extracted above is perverse and contrary to law.
11. The learned counsel for respondents, on the other hand, supported the order passed by the Court below and contended that the Court below was right in refusing to extend the interim injunction granted till 15-04-2009.
12. I have noted the submissions of both sides.
13. Order XXXIX Rule 3A CPC states:

**“3-A. Court to dispose of application for injunction within thirty days.** Where an injunction has been granted without giving notice to the opposite party, the Court shall make an endeavour to finally dispose of the application within thirty days from the date on which the injunction was granted; and where it is unable so to do, it shall record its reasons for such inability.”
14. Thus, in view of the above legal provision where an injunction has been granted without giving notice to the opposite party, the Court is bound to make an endeavour to dispose of the said

application within 30 days from the date on which the injunction was granted and if it was unable to do so, it has to record reasons for such inability. It appears that the Court below has lost sight of this legal principle and in spite of the fact that counter affidavit in I.A.No.719 of 2008 had been filed as long back as 15-03-2007, it has not disposed of the I.A. and kept on extending the interim order till 15-04-2009. This Court strongly deprecates this practice of the Court below in not deciding the application for temporary injunction within 30 days from the date on which the *ad interim* injunction was granted and for ignoring the mandatory provisions of Order XXXIX Rule 3A CPC. Moreover, merely because petitioners had reported ready in the suit, the duty of the Court below to follow Order XXXIX Rule 3A cannot be avoided. It cannot refuse to decide the I.A. on the pretext that trial in the suit has commenced and petitioner should try to get a final order in the suit after trial. This approach is perverse and unsustainable.

15. In my considered opinion, the Court below has abdicated its responsibility to decide the application for temporary injunction pending suit and it cannot compel the parties to proceed with the trial of the suit while refusing to extend the interim order.
16. In this view of the matter, the refusal of the Court below to consider I.A.No.1090 of 2009 by the impugned order cannot be sustained.
17. Accordingly, the Civil Revision Petition is allowed, and the order dt.26-10-2009 in I.A.No.1090 of 2009 in I.A.No.719 of 2008 in O.S.No.581 of 2008 is set aside and the Court below is directed to decide the said I.A. within 30 days from the date of receipt of a

copy of this order. There shall be no order as to costs.

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

---

**JUSTICE M.S. RAMACHANDRA RAO**

Date: 04-06-2015

KA/Vsv