

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION No.247 of 2015

ORDER:

This civil revision petition is filed, aggrieved by the order and decree in C.M.A.No.5 of 2013, dated 04.12.2014, on the file of the Senior Civil Judge, Bhongir, Nalgonda District, granting temporary injunction in favour of the respondent by modifying the order of *status quo* granted in I.A.No.661 of 2011 in O.S.No.153 of 2011, dated 29.10.2012, on the file of the Junior Civil Judge, Ramannapet.

2. The respondent herein filed the suit for perpetual injunction in respect of house bearing Nos.1-113, 1-139 and 1-140, admeasuring 600 square yards consisting of two country tiled rooms, open yard used for cattle shed and one dilapidated house covered with partly dilapidated mud compound wall, situated at Panthangi Village of Choutuppall Mandal, Nalgonda District. In the suit, the respondent filed I.A.No.661 of 2011 seeking temporary injunction. The respondent also filed Exs.P-1 to P-7. The petitioners filed a counter and filed Exs.R-1 to R-3. The case of the respondent herein and the petitioner in I.A.No.661 of 2011 is that he purchased 600 square yards of land from his grand father Seshagiri Rao on 02.02.2006 under a simple notarized Sale Deed. The case of the petitioners herein and more particularly, the first petitioner is that the said Seshagiri Rao already partitioned the family property and out of the property that fell to the share of the first petitioner, land to an extent of 100 square yards is sold to the second petitioner under R-3-Agreement of Sale, dated 02.07.2011, and the second

petitioner constructed a house in 100 square yards of land about five months prior to filing of counter. The trial Court granted order of *status quo* without giving a finding with regard to the *prima facie* title, possession of the property and balance of convenience. The respondent herein, who is the plaintiff in the suit, carried the matter in appeal in C.M.A.No.5 of 2013 and the lower appellate Court, the Senior Civil Judge Court at Bhongir, modified the order of *status quo* by granting temporary injunction in favour of the respondent herein. Now the learned counsel for the petitioners submit that they filed I.A.No.156 of 2015 in O.S.No.153 of 2011 for receiving the document of partition, dated 16.10.1994, before the trial Court.

3. Now the dispute relates to 100 square yards of land and there is no claim made by the petitioners with regard to the balance extent of 500 square yards of land. Whether the first petitioner is having *prima facie* title or not in respect of 100 square yards of land has to be examined by the trial Court. The lower appellate Court granted temporary injunction in favour of the respondent herein in view of non-filing of document of partition, dated 16.10.1994, by the petitioners herein. Since the petitioners submit that they have filed an application before the trial Court to receive the said document, this Court is inclined to remand the matter to the trial Court, which did not give a finding with regard to the *prima facie* title and possession, for considering the case afresh on the basis of evidence on record, by considering the document of partition, dated 16.10.2014, and passing appropriate orders in accordance with law.

4. Accordingly, the order in C.M.A.No.5 of 2013, dated 04.12.2014, passed by the Senior Civil Judge, Bhongir, and the order, dated 29.10.2012, in I.A.No.661 of 2011 in O.S.No.153 of

2011, passed by the Junior Civil Judge, Ramannapet, are set aside and the '*status quo*' which has been in operation till today, will continue till the disposal of the said application. The trial Court should dispose of the application in I.A.No.661 of 2011 in O.S.No.153 of 2011 without influenced by any of the observations made in this order, as this Court is not expressing any opinion on the title of any of the parties.

5. With the above observations, the Civil Revision Petition is allowed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this civil revision petition shall stand closed.

(A.RAMALINGESWARA RAO, J)

Date: 6th March, 2015
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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