

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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CIVIL REVISION PETITION No.4551 of 2014

ORDER:

Heard the learned counsel for petitioners and the learned counsel for respondent.

2. The defendants in O.S.No.109 of 2010 on the file of the Court of the Principal Senior Civil Judge, Ranga Reddy District at L.B.Nagar (for short, trial Court) are the petitioners herein. The respondent herein filed the said suit for cancellation of sale deed dated 12.03.1992 which was registered as document No.518 of 1992 in the office of the Sub-Registrar, Ibrahimpatnam, Ranga Reddy District and for consequential perpetual injunction. After filing of the said suit, the petitioners herein filed O.S.No.119 of 2010 before the Court of I Additional Senior Civil Judge, Ranga Reddy District at L.B.Nagar for permanent injunction in respect of the same extent of Acs.5-00 guntas of land in survey No.17, situated at Kongara Khurd-B Village, Maheshwaram Mandal, Ranga Reddy District. A temporary injunction was granted in I.A.No.74 of 2010 in O.S.No.119 of 2010, and challenging the same, the respondent herein filed CMA.No.81 of 2010 before the I Additional District Judge, Ranga Reddy District at L.B.Nagar (for short, lower appellate Court), which confirmed the order of temporary injunction, by order dated 16.06.2011.

3. Thereafter, the respondent herein filed the present application i.e., I.A.No.1252 of 2011 in O.S.No.109 of 2010 seeking recovery of possession of an extent of Ac.3-32 guntas on the ground that an extent of Ac.1-08 guntas was acquired by the Government and the land remained is only Ac.3-32 guntas. He sought amendment of the plaint by seeking recovery of possession. The said application was resisted by the petitioners herein stating that there is no separate cause of action indicated for seeking amendment and the amendment is beyond period of limitation. However, the trial Court allowed the said application, by order

dated 24.10.2014. By virtue of the amendment, the relief sought for by the plaintiff (respondent herein) exceeded the jurisdiction of the trial Court and the petitioner was directed to pay the required Court fee and re-present the plaint before a proper Court having pecuniary jurisdiction. Challenging the said order, the present Civil Revision Petition is filed.

4. It is evident from the above facts that the respondent herein filed a suit for cancellation of sale deed in respect of Acs.5-00 guntas of land in survey No.17, situated at Kongara Khurd-B Village, Maheshwaram Mandal, Ranga Reddy District. Petitioners herein also filed a suit for permanent injunction in respect of the same property, and after granting temporary injunction and its confirmation by the lower appellate Court, the respondent herein was advised to file the present application and accordingly he sought amendment for recovery of possession. Though the ground of limitation is raised by the petitioners herein, the trial Court observed that the point of limitation is a mixed question of law and fact and the same would be decided at the time of trial. This Court feels that the relief of recovery of possession is consequential to the original relief of cancellation of sale deed.

5. In the circumstances, this Court sees no ground to interfere with the order of the trial Court dated 24.10.2014 in I.A.No.1252 of 2011 in O.S.No.109 of 2010 and therefore the Civil Revision Petition is dismissed. Since the suit is going to be presented before the proper Court, it is in the fitness of things that the petitioner shall be given an opportunity to file additional written statement and the Court should frame additional issues based on the additional written statement. Since this is a suit of 2010, the Court to which the suit is going to be presented, shall take the original institution of the suit into consideration and dispose of the same on or before 31.12.2016. The parties shall cooperate for early disposal of the suit. No order as to costs. Miscellaneous Petitions, if any pending, shall stand closed.

Date: 30.12.2015
TJMR

A.RAMALINGESWARA RAO, J