

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

CIVIL REVISION PETITION No.1465 of 2014

ORDER:

Heard Sri N. Damodar Reddy, learned counsel for the petitioners and Sri K. Maheepati Rao, learned counsel for respondents 1 and 2.

2. This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 01.04.2014 in C.M.A.No.20 of 2013 passed by the Principal District Judge, Mahabubnagar reversing the order dated 13.09.2013 passed in I.A.No.164 of 2013 in O.S.No.39 of 2013 by the Junior Civil Judge, Shadnagar.

3. The petitioners herein are defendants in the suit. The respondents/plaintiffs filed the above suit seeking perpetual injunction restraining the petitioners from interfering with their alleged peaceful possession and enjoyment of the agricultural land admeasuring Ac.7.15 gts., in Sy.No.727, situated in Keshampet village and Mandal.

4. Along with the suit the respondents filed I.A.No.164 of 2013 seeking temporary injunction restraining the petitioners from interfering with their alleged peaceful possession of the land, pending disposal of the suit. They claim that their father one Bala Saheb was the protected tenant over the land to an extent of Ac.14.31 gts. in Sy.No.727; On his death, the respondents inherited the protected tenancy rights and they are in exclusive possession and enjoyment of Ac.7.15 gts. in Sy.No.727; and they also have protected tenancy rights subsisting in respect of the balance of extent Ac.7.16 gts. in Sy.No.727 which is not the subject matter of the suit. They contended that the petitioners managed to obtain the occupancy rights certificate under the provisions of A.P. (Telangana Area abolition of Inams) Act, 1955 (for short 'the Act') but their protected tenancy rights are not extinguished; that the order dt.23.07.2005 obtained

by the petitioners was challenged in W.P.No.2228 of 2006, which is pending before this Court; and on 02.05.2013 the petitioners came to the land and tried to trespass in to it; and therefore they had to file the suit.

5. The petitioners filed a counter stating that Inams were abolished with effect from 1.11.1973 and as per Section 3 of the Act all rights over the Inam lands vested with the Government and therefore the protected tenancy rights claimed by the respondents also stood extinguished on the abolition of Inams. It is admitted by them that the father of the respondents was a protected tenant but they contended that this fact was irrelevant and would not assist the respondents in any manner. They claim that occupancy rights certificate was issued in their favour on 16.03.2005, and respondents challenged the same in W.P.No.2228 of 2006 but no interim order was passed therein. The petitioners contended that the respondents had no prima facie case and balance of convenience and therefore the I.A. be dismissed.

6. Before the trial Court, the respondents marked Exs.P.1 to P.13 and petitioners marked Exs.R.1 to R9.

7. By order dated 13.09.2013 the Court below dismissed I.A.No.164 of 2013 stating that the issue regarding occupancy rights is pending in W.P.No.2228 of 2006 before this Court, and therefore, it felt that it was precluded from going into the merits of the matter in view of the pendency of the writ petition.

8. Challenging the same, the respondents filed C.M.A.No.20 of 2013 before the Principal District Judge, Mahbubnagar.

9. By order dated 01.04.2014 the said appeal was allowed. Before the appellate Court the respondents had contended that under Section 33 of the A.P. (Telangana Area) Tenancy and Agricultural Lands Act, 1950 the right of the protected tenants shall not be affected by the order passed under the provisions of A.P. (Telangana Area Abolition of Inams) Act, 1955; that they are protected tenants under the provisions of the Tenancy Act and therefore they are entitled to temporary injunction.

The lower appellate Court referred to Ex.R.1, the order of the Joint Collector granting occupancy rights certificate, which was challenged in W.P.No.2228 of 2006 before this Court, and came to the conclusion that since admittedly the respondents herein are protected tenants, the presumption is that they are protected tenants and unless and until they are evicted through the process of law, the respondents herein, who are in lawful possession, are entitled for injunction; therefore prima facie case is in favour of the respondents and if injunction is not granted they would suffer irreparable loss, whereas the petitioners herein who are not in possession, will not suffer any loss. The lower appellate Court gave a categorical finding that the respondents herein are in possession of the subject land and balance of convenience is in their favour.

10. Challenging the same, this Revision is filed.

11. On 03.06.2014, the Revision petition was admitted and interim stay of the order passed in C.M.A.No.20 of 2013 was granted only for a period of four weeks. The said interim order has not been extended.

12. Therefore, from 30.09.2013 till date i.e., 22.06.2015 except for four weeks there was an injunction order subsisting against the petitioners and in favour of the respondents. W.P.No.2228 of 2006 is still pending on the file of this Court and it may take considerable time to decide the said writ petition.

13. Having regard to these circumstances, this Court is not inclined to go into the merits of the claims of both the parties in this Revision, and therefore it directs that the suit O.S.No.39 of 2013 pending before the Junior Civil Judge, Shadnagar, be decided within a period of six months from the date of receipt of a copy of this order. Till the suit is decided the injunction granted in favour of the respondents by the Principal District Judge, Mahabubnagar in C.M.A.No.20 of 2013 shall continue.

14. It is made clear that this order will be subject to the final

judgment in the suit and the suit shall be decided by the trial Court uninfluenced by any of the observations made in the order passed in I.A.No.164 of 2013 or in C.M.A.No.20 of 2013 or by this Court in this Revision petition.

15. Accordingly the Civil Revision Petition is disposed of. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any, shall stand closed.

M.S. RAMACHANDRA RAO,J.

22nd June, 2015
Js.