

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.4261 OF 2015

ORDER:

This revision, under Article 227 of the Constitution of India, is filed by the petitioner challenging the order dated 10.02.2015 in C.M.A. No.3 of 2014 passed by IX Additional District Judge, Kamareddy while confirming the order in I.A. No.355 of 2013 in O.S. No.93 of 2013 passed by the Principal Junior Civil Judge at Kamareddy, granting temporary injunction restraining the petitioner herein from interfering with the suit schedule property in O.S. No.93 of 2013.

The petitioners, who are the defendants before the trial court, preferred the present revision aggrieved by the order passed by the Junior Civil Judge and confirmed by the appellate court on various grounds, mainly contending that the petitioners/ defendants are the owner of Ac.6.00 of land in Sy.No.485 and 490 and taking advantage of the purchase of the land by the respondent/ plaintiff in S.No.493 trying to occupy the land of the petitioner without any manner of right, being adjacent owners. This contention was not considered by the trial court as well as the appellate court, thus, committed an error in passing the impugned order.

The present revision is filed under Article 227 of the Constitution of India and the powers of the Court under Article 227 of the Constitution of India are limited.

For better appreciation, Article 227 of the constitution of India extracted hereunder:

227. Power of superintendence over all courts by the High Court

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction

(2) Without prejudice to the generality of the foregoing provisions, the High Court may-

(a) call for returns from such courts;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein: Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court or tribunal constituted by or under any law relating to the Armed Forces.

A bear look at Article 227 of the Constitution of India shows that powers of the High Court are limited and they are supervisory in nature. In one of the judgments of the Apex Court in **Essen Deniki v. Rajiv Kumar** discussed about the jurisdiction of the High Court under Article 227 of the Constitution, held that the jurisdiction of the Court under Article 227 of the Constitution is limited and restrictive in nature, revisional and not appellate and finding of fact cannot be gone into normally. Generally speaking, exercise of jurisdiction under Article 227 of the Constitution of India is limited and restrictive in nature and it is so exercised in the normal circumstances for want of jurisdiction, errors of law, perverse findings and gross violation of principles of nature justice, to name a few. It is merely a revisional jurisdiction and does not confer an unlimited authority or prerogative to correct all orders or even wrong decisions made within the limits of the jurisdiction of the Courts below. The finding of fact being within the domain of the inferior Tribunal, except where it is a perverse recording thereof, or not based on any material whatsoever resulting in manifest injustice, interference under the Article is not called for. Therefore, the jurisdiction so conferred is by no means appellate in nature for correcting errors in the decision of the subordinate Courts or Tribunals but is merely a power of superintendence to be used to keep them within the bounds of their authority.

In another judgment of the Apex Court in **Nibaram Chandra Bag v. Mahendra Nath Ghughu**, it is ruled that the Court has been rather categorical in recording finding that the jurisdiction so conferred is by no means appellate in nature for correcting errors in the decision of the subordinate Courts or Tribunals but is merely a power of superintendence to be used to keep them within the bounds of their authority. In view of the law declared by the Apex Court in the two judgments referred above, the powers of the High Court under Article 227 of the Constitution of India are limited.

In the present case, learned counsel for the petitioner contended that the trial court did not advert to the contention of the petitioner about the purchase of the property in S.No.490 and 485 which is adjacent to the land of the respondent before the trial court. This aspect is only purely factual in nature and even if the order passed by the

trial court is factually incorrect not based on any material, this court cannot exercise the jurisdiction to interfere even in the wrong orders passed by the trial court. If the trial court exceeds the discretion conferred on it or failed to exercise the discretion it is having, then only this court can exercise the power under Article 227 of the constitution and can interfere with the order passed by the trial court. Here except contending that the trial court did not consider the specific plea set up by the petitioner herein, who is defendant before the trial court, based on facts, no other illegality or irregularity or perversity in recording concurrent finding by both the courts is pointed out before this Court. Hence, the order under challenge does not call for interference of the Court.

Therefore, I find no ground warranting interference of this Court in the order in C.M.A. No.3 of 2014 confirming the order passed by the Junior Civil Judge in I.A. No.355 of 2013 in O.S. No.93 of 2013 by exercising the jurisdiction under Article 227 of the Constitution of India.

Accordingly, the revision is dismissed at the stage of admission. However, the observation made if any will have no bearing on disposal of main Suit or any other separate proceeding in the Suit.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M. SATYANARAYANA MURTHY, J

Dt.12-10-2015

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