

HON'BLE SRI JUSTICE S.V. BHATT

C.R.P.No.2078 OF 2015

ORDER :

The defendant is the revision petitioner. The revision is directed against the order dated 04.09.2014 in C.M.A. No.4 of 2013 in the Court of the Senior Civil Judge, Kovvur.

The respondent/plaintiff filed O.S.No.123 of 2011 in the Court of Principal Junior Civil Judge, Kovvur for the relief of permanent injunction in respect of the schedule property. Along with the suit, the respondent filed I.A.No.412 of 2011 for grant of temporary injunction pending suit. The trial Court through order dated 30.11.2012 granted temporary injunction and the revision petitioner carried the same by way of appeal in C.M.A.No.4 of 2013.

The learned Senior Civil Judge dismissed the appeal through the order impugned in the revision. Hence, the revision.

The case of respondent is that she is in possession and enjoyment of the schedule property being an extent of Ac.0-02 cents in S.No.17/1-2 of North Rajupalem Gram Panchayat since 1997, having acquired the same from her father. The father of the petitioner used to run a shop in the front portion of the schedule property for about 18 years. The father of petitioner then applied to the Tahasildar to specify the boundaries. It is further averred that the respondent approached the village gram panchayat for construction of a building in the schedule property and permission was granted.

On the other hand, the revision petitioner denies the boundaries and also the extent of the petition schedule property and filed documents Exs.R-1 to R-5 in support of her contention. According to the revision petitioner, her property is situate in S.No.17/2 and she is no way concerned with the property situate in S.No.17/1-2.

The trial Court by placing reliance upon Exs.P.1 to P.7 has *prima facie* found that the respondent is in possession of the petition schedule property and, accordingly, granted temporary injunction. The same was confirmed by the appellate Court holding that the dispute with regard to the boundaries or extent of the property cannot be decided in the interim injunction application and the same can be decided after a full-fledged trial. The appellate Court also held that the respondent is in possession and enjoyment of the schedule property.

Heard learned counsel for the petitioner.

Both the Courts have rightly held that the dispute with regard to the boundaries or extent of the property cannot be decided in the interim injunction petition and can be decided only after a full-fledged trial. In my considered view, the respondent has established that she is in possession and enjoyment of the schedule property and the revision petitioner has also admitted in the legal notice under Ex.R-3 about the same. Moreover, the documents filed by the respondent/plaintiff are supporting her contention. Therefore, the respondent/plaintiff has made out *prima facie* case and balance of convenience and as such grant of temporary injunction by both the Courts below in her favour is not illegal and both courts below have concurrently held against the revision petitioner/defendant and in favour of the respondent/plaintiff. There are no merits in the revision.

In the result, Civil Revision Petition is dismissed. The trial court is directed to expedite the hearing of the suit preferably within a period of three months from the date of receipt of copy of this order, uninfluenced by any of the findings recorded while disposing of I.A.No.412 of 2011 or C.M.A.No.4 of 2013. No costs.

Miscellaneous Petitions if any, pending in this civil revision petition shall stand closed.

S.V. BHATT,J

Date: 26.06.2015
Lrkm/IsI