

**IN THE HIGH COURT OF JUDICATURE AT
HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE
OF ANDHRA PRADESH**

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CIVIL REVISION PETITION No.601 of 2015

Between:

E.Venkatarama Naidu and another

.. Petitioners

and

E.Ramachandra Naidu and another

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 12.8.2015

SUBMITTED FOR APPROVAL:

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

1. Whether Reporters of Local
newspapers Yes/No
may be allowed to see the Judgments?

2. Whether the copies of judgment may
be Yes/No
marked to Law Reporters/Journals?

3. Whether Their Ladyship/Lordship wish to
Yes/No

see the fair copy of the Judgment?

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

CIVIL REVISION PETITION No.601 of 2015

ORDER:

This revision is filed challenging the order, dated 02.12.2014, in I.A.No.164 of 2014 in I.A.No.552 of 2012 in O.S.No.63 of 2012 on the file of the Principal Junior Civil Judge, Puttur.

2. The petitioners herein are defendants in the suit. The respondents/plaintiffs filed the above suit for permanent injunction restraining the petitioners from interfering with their alleged possession and enjoyment of the suit 'A' schedule property and from using the common way of 'B' schedule property for ingress and egress into 'A' schedule property and for costs.

3. Pending suit, the respondents filed I.A.No.552 of 2012 for temporary injunction pending disposal of the suit. The said I.A. was allowed on 14.6.2013 on merits and a temporary injunction was granted restraining the petitioners from interfering with the peaceful possession and enjoyment by the respondents of the plaint schedule

property pending disposal of the suit. It is stated by the learned counsel for the petitioners that challenging the said order, C.M.A.(SR).No.345 of 2013 was filed by the petitioners before the Senior Civil Judge, Puttur and that the same is pending.

4. Alleging that in spite of the order dated 14.6.2013 in I.A.No.552 of 2012, the petitioners and their followers entered into the land of the respondents and caused damage to their property and without police aid, the temporary injunction order cannot be implemented and there is a threat of dispossession by the petitioners, I.A.No.164 of 2014 was filed under Order XXXIX Rule 2-A C.P.C. and under Section 151 C.P.C. seeking police aid by directing the Station House Officer, Palasamudram Police Station to assist in the implementation of the order passed in I.A.No.552 of 2012.

5. This application was opposed by petitioner No.1. He denied the allegations made by the respondents and alleged that it is the petitioners who are in possession and enjoyment of the plaint schedule properties and only to harass them, this application is filed.

6. By order, dated 02.12.2014, the said I.A.was allowed by the Court below. It held that by order dated 14.6.2013 in I.A.No.552 of 2012, the petitioners were restrained from interfering with the peaceful possession

and enjoyment of the respondents over the suit schedule properties till the disposal of the main suit, and since it is alleged that the petitioners are interfering with the possession of the respondents, it is just and necessary to give police aid to the respondents to protect their possession.

7. Challenging the same, this Revision is filed.

8. Heard Sri T.C.Krishnan, learned counsel for the petitioners, and Sri K.V.Subrahmanyam Narusu, learned counsel for the respondents.

9. Learned counsel appearing for the petitioners relied upon a decision of a Division Bench of this Court in **Polavarapu Nagamani and others v. Parchuri Koteswara Rao and others**^[1] and contended that the only remedy available to the respondents is to file a petition under Order XXXIX Rule 2-A C.P.C. and they cannot seek police aid. He contended that in the said judgment, the Division Bench held that only when there is a threat of dispossession, application for police aid would be maintainable and not if the injunction order is already violated.

10. Learned counsel for the respondents, on the other hand, relied upon the judgment of this Court in **Gampala Anthaiah and others v. Kasarla Venkat Reddy**^[2]

wherein this Court held that the judgment in **Polavarapu Nagamani's** case (1 supra), insofar as it held that application for police protection is maintainable when there is threat of violation of the injunction order but not when there is violation of injunction order, is *per incuriam*. In **Gampala Anthaiah's** case (2 supra), this Court held that in decisions of the Supreme Court of India in **Meera Chauhan v. Harsh Bishnoi**^[3] and **P.R.Muralidharan and others v. Swamy Dharmananda Theertha Padar and others**^[4], the Apex Court held that police aid can be granted in the event of violation of the order of temporary injunction granted by the Court, but the same was not noticed by the Division Bench in **Polavarapu Nagamani's** case (1 supra) and that the ratio therein that only an application under Order XXXIX Rule 2-A C.P.C. is maintainable or an execution petition should be filed under Order XXI Rule 32 C.P.C. if an order of injunction is violated and plaintiff cannot file an application seeking police aid, is *per incuriam*. **Gampala Anthaiah's** case (2 supra) categorically held that a party, who obtained temporary injunction orders and is complaining of violation of such orders, may file not only any execution petition under Order XXI Rule 32 C.P.C. or application under Order XXXIX Rule 2-A C.P.C., but he can also file an application seeking police aid under Section 151 C.P.C. from the Civil Court.

11. In view of the decision in **Gampala Anthaiah's** case (2 supra), I am of the opinion that no error has been committed by the Court below in granting police aid to the respondents in I.A.No.164 of 2014. Therefore, I do not find any merit in the Revision.

12. Since both parties stated that C.M.A.(SR)No.345 of 2013 filed against the order dated 14.6.2013 in I.A.No.552 of 2012 is pending before the Senior Civil Judge, Puttur, the said Court is directed to dispose of the same as expeditiously as possible preferably within a period of three (3) months from the date of receipt of a copy of this order.

13. With the above direction, the Civil Revision Petition is dismissed.

14. Miscellaneous Petitions pending, if any, in this Civil Revision Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 12.8.2015
AMD

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

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AMD

[\[1\]](#) 2010 (2) ALD 41 (DB)
[\[2\]](#) 2014 (2) ALD 281
[\[3\]](#) (2007) 12 SCC 201
[\[4\]](#) (2006) 4 SCC 501