

THE HON'BLE SRI JUSTICE A.V. SESA SAI

C.R.P.No.3452 of 2014

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ORDER:

The defendants in O.S.No.71 of 2012 on the file of the Court of Additional Junior Civil Judge, Husnabad, Karimnagar District are the petitioners in the present revision, filed under Article 227 of the Constitution of India. The challenge in the present revision is to the docket order dated 02-07-2014 passed by the said Court, allowing I.A.No.211 of 2013 filed by the respondent herein, under Section 151 C.P.C., seeking police protection.

Heard Sri K.M. Mahender Reddy, learned counsel for the petitioners and Sri B. Ramesh, learned counsel for the respondent, apart from perusing the material available before the Court.

The respondent herein instituted O.S.No.71 of 2012 against the petitioners herein for permanent injunction. Along with the suit, he filed I.A.No.197 of 2012 under the provisions of Order XXXIX Rules 1 and 2 C.P.C., seeking temporary injunction. The Court below granted temporary injunction on 16-05-2012, and the petitioners herein filed a counter, resisting the said application. In the said I.A.No.197 of 2012, the plaintiff/respondent herein filed the present application, i.e. I.A.No.211 of 2013, seeking police protection.

The learned Junior Civil Judge, on 02-07-2014 passed an order, allowing I.A.No.211 of 2013.

Calling in question the validity and the legal acceptability of the said order passed by the learned Junior Civil Judge, the present

revision has been filed.

It is contended by the learned counsel for the petitioners that the order passed by the Court below is erroneous, contrary to law and is opposed to the settled propositions of law. It is further contended that the learned Junior Civil Judge grossly erred in passing the order, without assigning any reasons. On the contrary, it is vehemently contended by the learned counsel for the respondent that in the facts and circumstances of the case, the learned Junior Civil Judge justified in passing the order under challenge, and there is no illegality nor any jurisdictional error in the order passed by the Court below, as such the present revision filed under Article 227 of the Constitution of India is not maintainable.

The material available before this Court manifestly discloses that in I.A.No.197 of 2012, the learned Junior Civil Judge granted interim injunction on 16-05-2012 and the defendants/petitioners herein filed the counter on 24-04-2013. The respondent herein filed the present application in I.A.No.211 of 2013 on 01-05-2013, seeking police protection. A perusal of the order under revision clearly shows that the learned Judge allowed the application only on the solitary ground that the defendants/petitioners herein did not file any counter, despite giving sufficient opportunity. In the considered opinion of this Court, the manner in which the learned Judge considered the application and passed the orders is neither reasonable nor justified. The learned Judge ought to have referred to the averments made in the affidavit filed in support of the application and should have come to the conclusion only after consideration of the same. In the present case, the said exercise is conspicuously absent. Therefore, on this ground alone, without going into the merits and demerits of the matter,

this Court is inclined to set aside the order and remand the matter to the Court below for fresh consideration, in accordance with law.

For the aforesaid reasons, the revision is allowed, setting aside the order dated 02-07-2014 passed by the Court below in I.A.No.211 of 2013, and I.A.No.211 of 2013 is remitted back to the Court below for fresh consideration, in accordance with law, after giving opportunity of filing the counter and hearing all the stakeholders.

The miscellaneous petitions filed in the C.R.P shall also stand disposed of. There shall be no order as to costs.

A.V. SESA SAI, J.

Dt.19-02-2015.

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