

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No.2295 of 2015

Date:26.06.2015

Between:

Shaik Kanigiri Shaim Bee,
W/o Meerase

..... **Petitioner**

And:

Shaik Meera Saheb, S/o Husain Saheb
and another.

.....**Respondents**

Counsel for the Petitioner: Sri B.Krishna Mohan

Counsel for the Respondents: None appeared

The Court made the following:

ORDER:

This Civil Revision Petition arises out of order, dated 30.04.2015, in I.A.No.1140 of 2015 in O.S.No.238 of 2015 on the file of learned Senior Civil Judge, Sattenapalli.

I have heard Sri B.Krishna Mohan, the learned counsel for the petitioner and perused the record.

Respondent No.1 has filed the above-mentioned suit against respondent No.2 and the petitioner herein for permanent injunction restraining them from interfering with his peaceful possession and enjoyment of Ac.0.30 cents of vacant site in Survey No.25 of Mangalagiripadu Sivaru, Turakapalem Grama Kantam, Medikonduru Mandal, Guntur District.

Along with the said suit, respondent No.1 has filed I.A.No.1140 of 2015 for temporary injunction. By order,

dated 30.04.2015, the learned Senior Civil Judge, Sattenapalli has granted ad interim injunction in favour of respondent No.1. Feeling aggrieved by the same, the petitioner filed this Civil Revision Petition.

Sri B.Krishna Mohan, the learned counsel for the petitioner, submitted that there is a statutory bar under Section 14 of the Land Encroachment Act, 1982 (for short 'the Act') against initiation of any proceedings under the said Act and that before filing the suit, respondent No.1 has also failed to issue a notice under Section 80 of the Code of Civil Procedure to respondent No.2 as well as the petitioner, who is the Sarpanch of the Mangalagiripadu Grama Panchayat.

While, it appears, under Section 14 of the Act, institution of the suit is barred, in my opinion, the petitioner ought to have first moved the lower Court bringing to its notice the non-maintainability of the suit. Similarly, the petitioner ought to have raised the issue of non-compliance of Section 80 C.P.C. and sought for vacation of the injunction order and dismissal of the suit itself. As the petitioner failed to approach the lower Court as observed above, I am not inclined to entertain this Civil Revision Petition at this stage. If the petitioner is unsuccessful in convincing the lower Court to vacate the injunction order and dismiss the suit, he shall be free to approach this Court in such event.

Subject to the liberty given to the petitioner as above, the Civil Revision Petition is dismissed.

As a sequel to dismissal of the Civil Revision Petition, CRPMP.No.3057 of 2015 filed by the petitioner for interim relief is dismissed as infructuous.

*JUSTICE C.V.NAGARJUNA
REDDY*

*26th June, 2015
DR*