

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

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CIVIL REVISION PETITION No.3410 of 2015

ORDER:

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This civil revision petition under Article 227 of the Constitution of India is directed against the order dated 07.07.2015 of the learned Sub-Divisional Magistrate & Special Assistant Agent to Government, Mobile Court, Bhadrachalam passed in IA.No.83 of 2015 in OS.No.69 of 2015.

2. In a suit brought by the plaintiff for a perpetual injunction against the defendant and his men in respect of Ac.6.02 cents of land situate at Suraram village, more fully described in the schedule annexed to the plaint, the learned Magistrate while considering the submissions made on behalf of the learned counsel for the plaintiff in IA.No.83 of 2015, had passed the following order:

‘The both parties shall maintain status quo as per the R.O.F.R Patta Books mentioned extent and boundaries issued by the concerned authorities till further orders.’

The aforesaid order is now assailed in this revision.

3. I have heard the submissions of the learned counsel for the revision petitioner/respondent/defendant (‘the defendant’, for brevity) and the learned counsel for the respondent/petitioner/plaintiff (‘the plaintiff’, for brevity). I have perused the material record.

4. The learned counsel for the defendant would submit that out of Ac.6.02 cents of land, which is being claimed by the plaintiff, the defendant is having right, title and interest and also possession over Ac.2.00 cents of land and that the defendant had filed 3rd party affidavits to substantiate his said version and that the defendant had also filed an application for appointment of a Commissioner and that the learned Magistrate without considering the application had passed the interim order of *status quo* and that, therefore, the said orders are unsustainable. He would further submit that the plaintiff also

did not produce any documents like pahanies, which is the best evidence in proof of possession as per the ratio in the decision in **Koyyada Andalu v. Lingala Satyanarayana**^[1] and that in the absence of any evidence brought on record by the plaintiff, the order impugned is unsustainable.

5. The learned counsel for the plaintiff would submit that the parties are tribals and the land is in a scheduled area and that the plaintiff is having patta pass book for Ac.6.02 cents of land situate at Forest Block at Kanigiri bearing no.87 and that on the other hand, the defendant is only claiming Ac.2.00 cents orally stating that the plaintiff has given that extent of land to the defendant and that the order of the Court below which is an interim order is a well considered order.

6. The operative portion of the order impugned shows that both the parties are directed to maintain *status quo* as per the R.O.F.R patta pass books wherein the extent and boundaries were also mentioned while issuing the same by the concerned authorities. Therefore, the order of *status quo* until further orders is passed based on the available record. The order passed is only an interim order and the interlocutory application is still pending before the learned Magistrate. Therefore, this Court finds that there is no merit in this revision warranting interference with the *status quo* order which is an interim order and that the defendant can raise all his contentions before the learned Magistrate while making a request to dispose of the interlocutory application on merits as such a course sub-serves the ends of justice.

7. Viewed thus, this Court finds that this revision petition against the interim order is devoid of merit and is liable to be dismissed. However, as desired by the learned counsel, the learned Magistrate is directed to dispose of the IA.83 of 2015 in OS.69 of 2015 as expeditiously as possible and preferably within a period of two months from the date of receipt of a copy of this order and shall also consider the application filed by the defendant for appointment of a Commissioner before passing final orders in the said interlocutory application on merits and in accordance with the procedure established by law.

8. In the result, the Civil Revision Petition is dismissed. There shall be no order as to costs.

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

JUSTICE M. SEETHARAMA MURTI

27th August, 2015
Vjl

[\[1\]](#) 2014 (5) ALT 714