

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION NO.2561 of 2015

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ORDER:

This civil revision petition is filed under article 227 of the Constitution of India challenging the order dated 11.06.2015 passed in I.A.No.178 of 2014 in I.A.No.157 of 2014 in O.S.No.30 of 2014 by the Junior Civil Judge, Thungathurthy, granting police protection to enforce the ex parte injunction order passed in I.A.No.157 of 2014, which was extended from time to time.

The petitioner herein is the defendant. The suit was filed by the respondents/plaintiffs for perpetual injunction alleging interference of the petitioner with respect to the land in Sy.No.409 over an extent of Ac.0.24 gts., situated at Koduru village Arvapalli Mandal. The 1st respondent is the brother of the petitioner and the 2nd respondent is the son of the 1st respondent. In other words, the petitioner and the respondents are close relatives and are belonging to the same family.

The admitted case of the petitioner/defendant was that the petitioner as well as the respondents/plaintiffs claim to have purchased the property admeasuring Ac.1.00 in Sy.No.409, 410 and 411 from the same vendor one Mr.C. Ramakrishnaiah and his brothers. The respondents/plaintiffs obtained ex parte injunction order against the petitioner herein on 27.10.2014 in I.A.No.157 of 2014. Initially, the said ex parte injunction order was granted up to 13.11.2014 and thereafter the same was extended from time to time. The present I.A.No.178 of 2014 was filed on 19.12.2014 for police protection for implementation of order of injunction, which was came to be ordered on 11.07.2015. On 18.02.2015 the petitioner herein appeared before the Court below and filed written statement as well as counter in I.A.No.157 of 2014 and the same is pending enquiry. In the counter affidavit filed in I.A.No.157/2014 the petitioner/defendant alleged that the

respondent/plaintiffs are trying to occupy his land by showing western side boundary wrongly wherein the petitioner had dug a bore well in July, 2014. In I.A.No.157 of 2014 final orders yet to be passed. The very allegation of encroachment on the part of the respondents is categorically denied. The court below allowed I.A.No.178 of 2014 dated 11.06.2015 granting police protection. Aggrieved by the same, the petitioner/defendant filed the present revision petition.

Heard learned counsel for the petitioner and learned counsel for the respondents.

Admittedly, the Court below without giving any finding after enquiry as to who is in possession of the property, and without passing any final orders in I.A.No.157 of 2014 allowed the petition filed for police protection.

In cases where there is prompt action taken by the party contesting the *ex parte* orders, as held by this Court in **Polavarapu Nagamani and others v. parchuri Koteswara Rao and others**^[1], it is not safe to order police protection, though there is no specific bar for granting police protection, to enforce the *ex parte* injunction order. This aspect of the matter is no more *res integra* and is well settled by this Court in a judgment of this Court in **Bijiga Papa Rao and others v. Jonnalagadda Srinivasa Rao**^[2]

In the present set of facts, considering the close relationship between the parties and the issue in relation to the right of the parties to have injunction is pending enquiry, the learned Junior Civil Judge ought not to have exercised the power under Section 151 C.P.C., by granting police protection without disposing of the main I.A.No.157 of 2014.

In the circumstances, the order dated 11.06.2014 passed in I.A.No.178 of 2014 is set aside and the Civil Revision Petition is allowed. The learned Junior Civil Judge is directed to complete the enquiry in I.A.No.157 of 2014 and pass final orders within a period of

eight weeks from today.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

4th September, 2015
Js.

[\[1\]](#) 2010 (2) ALD 41 (DB)

[\[2\]](#) 2015 (2) ALT 63