

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

CIVIL REVISION PETITION No.4290 of 2010

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ORDER:
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This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dt.16-07-2010 in I.A.No.225 of 2010 in O.S.No.59 of 1989 of the Junior Civil Judge, Pargi, Ranga Reddy District.

2. The petitioners herein are defendants in the above suit.

3. The respondents/plaintiffs in the above suit were granted an injunction in I.A.No.159 of 1989 on 20-08-1990 and the same was confirmed in C.M.A.No.12 of 1990 on 03-04-1992.

4. The respondents filed I.A.No.225 of 2010 before the trial Court contending that the petitioners have no regard to the Courts or orders of the Court and in spite of specific orders of the Court, petitioners had attempted to trespass into the subject land on 18-06-2010 and damaged the fields in the occupation of the respondents. They further contended that the petitioners are influential, have support of unsocial elements in the village and are prevailing over the police, and if police protection is not granted, grave

and irreparable loss would be caused to them.

5. The petitioners filed a counter affidavit denying these allegations. They contended that the interim injunction order in the suit is 20 years old and it lost its importance and became unenforceable. They also raised the plea that respondents were never in possession of the land. They claimed that they had purchased the plaint schedule property under registered sale deed from the rightful owner and are in defacto-possession of the suit lands continuously from the date of purchase for more than two decades.

6. By order dt.16-07-2010, the Court below granted police aid to respondents.

7. Questioning the same, this Revision is filed.

8. The learned counsel for petitioners contends that the Court below ought not to have granted police aid to respondents having regard to the pleadings of the petitioners in the counter affidavit filed by them to the said I.A. referred to above. He denied that the respondents are in possession of the property and contended that the order of injunction having been granted in 1990, more than 20 years back, it had lost its importance and cannot be enforced by grant of police aid. He relied upon the

judgment in **P.Shanker Rao Vs. B.Susheela**^[1]

9. It is pertinent to note that in the order dt.20-08-1990 in I.A.No.159 of 1989 in O.S.No.59 of 1989, the Court below had given a finding that respondents are in possession of the subject property on the basis of evidence adduced in I.A. and also held that the petitioners have not filed any documents to show their possession of the plaint schedule properties. No doubt the suit is still pending. It is also not disputed that the order passed on 20-08-1990 in I.A.No.159 of 1989 was confirmed in C.M.A.No.12 of 1990 on 03-04-1992. Having regard to these facts, it is not open to petitioners to contend that respondent Nos.1 and 2 are not in possession of the plaint schedule properties and that it is the petitioners who are in possession thereof.

10. In **P.Shanker Rao** (1 supra), this Court has held that even if action could be taken against either party for flouting the injunction under Order XXXIX Rule 2-A CPC or under the Contempt of Courts Act, 1971, it could not come in the way of the Court taking all necessary steps for ensuring obedience of the injunction order. It held that the Court need not wait till the injunction is breached and in a fit case, it can undoubtedly direct police aid as a preventive measure. It held that this power of grant of

police though not expressly conferred is a power of incidental or ancillary to the exercise of the power to grant injunction pending the suit. It however observed that police aid should not be granted for mere asking and the Court has to be satisfied, *prima facie*, that there is an imminent threat of violation of interim order, if police does not interfere and that there is no other way of ensuring effective compliance.

11. In the present case, in spite of a clear finding in the order

dt.20-08-1990 in I.A.No.159 of 1989 that respondents are in possession of the subject property and the said order being confirmed in the order dt.03-04-1992 in C.M.A.No.12 of 1990, petitioners have taken a plea that the respondents are not in possession of the plaint schedule property and that the order of injunction granted in the year 1989 had lost its importance and had become unenforceable.

12. Thus, the very pleadings of petitioners would show that there is imminent threat of violation of the interim order, and that if police did not intervene, there would be no other way of ensuring effective compliance of the interim injunction order.

13. Since the order in I.A.No.159 of 1989 was granted

after contest and was also confirmed in C.M.A.No.12 of 1990, I am of the opinion that the Court below was right in holding that respondents are entitled to police aid for implementation of the said order.

14. Therefore, I do not find any merit in the Revision and the same is accordingly dismissed. No costs.

15. As a sequel, miscellaneous petitions pending, if any, shall stand disposed of.

JUSTICE M.S. RAMACHANDRA RAO

Date: 25-06-2015

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