

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

CIVIL REVISION PETITION Nos.4318 and 4810 of 2014

COMMON ORDER:

These two Civil Revision Petitions are being disposed of by this common order, as they arose out of one suit and involve a common point of law.

The petitioners are plaintiffs in O.S.No.152 of 2012 on the file of the Principal Junior Civil Judge, Eluru, West Godavari District. In the said suit, the plaintiffs filed two interlocutory applications, I.A.No.794 of 2014 to issue summons to the Secretary, Adavikolanu Large Size

Co-operative Society Limited to produce the original Sale Deed dated 09.05.1983 executed by the father of the plaintiffs in favour of Batti Basavaiah and Batti Venkata Rao, and I.A.No.1361 of 2014 to send the above Sale Deed along with Sale Deed dated 21.12.1994 to a handwriting expert for comparison. The said applications were dismissed by common order dated 22.09.2014 by holding as follows:

"Plaintiffs, as stated above, are claiming to be in possession of the schedule land. So, according to them, their father did not part with the possession of the schedule land in favour of defendant No.1. If that is so, plaintiffs can prove their possession over the schedule land. Similarly, defendant No.2 is claiming that defendant No.1 purchased the plaintiff schedule land from the father of the plaintiffs and defendant No.2 purchased the schedule land from defendant No.1 and defendant No.2 is also claiming to be in possession of the schedule land and cultivating it with the help of defendants 3 and 4. If that is so, defendant No.2 can also establish her possession. In either case, the genuineness or otherwise of the sale deed dated 21.12.1994 is not required to be decided in the present suit.

Both the present I.As were filed only in an attempt to prove the allegation of the plaintiffs that the sale deed dated 21.12.1994 is forged and fabricated and it is not genuine.

Except that, for no other purpose the I.As have been filed. Therefore, in view of the above discussion, both the petitions are liable to be dismissed."

The plaintiffs filed I.A.No.794 of 2014 stating that the 1st defendant is claiming that he purchased the schedule property from the father of the plaintiffs under registered Sale Deed dated 21.12.1994 and the 2nd defendant purchased the same from the 1st defendant under registered Sale Deed dated 02.11.2011. The defendants 2 to 4 also filed the original Sale Deed dated 21.12.2014, and after careful perusal of the same, it was noticed that the said Sale Deed was a fabricated and concocted document, as the signatures and thumb marks thereon are not that of the father of the plaintiffs. In those circumstances, they wanted the summoning of another Sale Deed dated 09.05.1983 executed by the father of the plaintiffs in favour of Batti Basavaiah and Batti Venkata Rao, which was in the custody of Adavikolanu Large Size Co-operative Society Limited, for sending the same along with registered Sale Deed dated 21.12.1994 to the handwriting expert for comparison.

The lower Court rightly held that if such an exercise is undertaken, the scope of the suit will be expanded, and in a suit for permanent injunction, only the *prima facie* title has to be looked into. It is clear from the submissions made by the learned counsel for the plaintiffs that in the present suit, a temporary injunction was granted and the plaintiffs are having advantage of the same. The defendants are claiming a better title. It is for the defendants to prove their better title and possession as on the date of filing of the suit, when compared to the title and possession of the plaintiffs, who have to initially discharge the burden. As rightly pointed out by the trial Court, the scope of the enquiry, in the present suit for

permanent injunction, cannot be enlarged by undertaking the exercise as sought for by the plaintiffs in the present two applications. The common order passed by the trial Court does not warrant any interference.

The Civil Revision Petitions are accordingly dismissed.
There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the civil revision petitions shall stand dismissed.

(A.RAMALINGESWARA RAO, J)

15th December, 2015
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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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