

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

WRIT APPEAL No. 760 OF 2015

12-08-2015

Between:

Smt. J. Mathamma

... Appellant

And

Pattam Munaswamy, s/o. P. Kuppaiah, aged 55 years, r/o. D.M. Puram Village and Post, Karvetinagaram Mandal, Chittoor District and three others

... Respondents

-
-
-

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE S.V. BHATT

-

WRIT APPEAL No. 760 OF 2015

PC: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard learned counsel for the appellant and learned Government Pleader for Revenue for respondent Nos.2 to 4. None appears for respondent No.1 though served.

This writ appeal is directed against the order dated 28-12-2010 passed in Writ Petition No.32896 of 2010, whereby the writ petition has been disposed of with the following observations:

“As a law abiding citizen, the petitioner has approached the civil Court when he faced threat of dispossession. On its part, the trial Court ordered notice in I.A No. 653 of 2010 and appointed an Advocate Commissioner. The report has since been submitted. The reasons for not disposing I.A No. 635 of 2010 as of now are not immediately before this Court. In case the petitioner is dispossessed, the very purpose of filing the suit as well as I.A No. 653 of 2010 would be defeated.

Hence, the writ petition is disposed of, directing that the respondents shall not dispossess or otherwise interfere with the possession of the petitioner over the land in question till the trial Court passes appropriate orders in I.A No.653 of 2010. This Order shall not be treated as recording any finding as to the possession of the petitioner or his rights. The trial Court shall decide the I.A. on its own merits. In case the I.A is not disposed of as yet, the trial Court shall take up the same and dispose it of within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.”

The appellant who was not party to the writ petition sought leave to file appeal and leave has been granted. The appellant claims that she is in possession of the property which is the subject matter of the instant proceedings and that her husband is a party to O.S No.216 of 2010 on the file of Principal Junior Civil Judge, Puttur, in which I.A Nos. 653 and 635 of 2010 were filed. The appellant also claims that she and her husband are in possession of the suit property. We would not like to enter into this controversy as to who is in possession since the suit is pending to which the appellant's husband is also a party defendant. It is always open for him to file appropriate application before the Court where the original suit is pending or/and to file independent suit for seeking appropriate relief in respect of the land in dispute.

Keeping these options open to the appellant, we dispose of this writ appeal.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

S.V. BHATT, J

12-08-2015

ks