

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 2707 of 2015

ORDER:

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Challenging the order dated 25.02.2015 passed in C.M.A.No.28 of 2014 on the file of the Judge, Family Court-cum-Additional District and Sessions Judge, Karimnagar, defendant No.1 preferred the present Civil Revision Petition under Article 226 of the Constitution of India.

For the sake of convenience, the parties will hereinafter be referred to as arrayed before the trial Court.

The facts in issue are as under:

The plaintiff filed O.S.No.183 of 2013 on the file of the Additional Senior Civil Judge, Karimnagar seeking perpetual injunction. Along with the said suit, the plaintiff also filed I.A.No.832 of 2013 seeking ad-interim temporary injunction. During the enquiry in I.A., the trial Court marked Exs.P1 to P17 and Exs.R1 to R.43 on behalf of the defendants. Considering the rival arguments advanced by both the parties and on perusal of the record, the learned Additional Senior Civil Judge, Karimnagar, by the order, dated 16.09.2014, dismissed the said I.A. holding that the plaintiff failed to prove his possession and the documents filed by the defendants show that they were in possession of the property. Aggrieved by the same the plaintiff filed C.M.A.No.28 of 2014 on the file of the Judge, Family Court-cum-Additional District and Sessions Judge, Karimnagar. By an order, dated 23.02.2015, the learned Judge, Family Court-cum-

Additional District and Sessions Judge, Karimnagar, allowed the said appeal in part. The operative portion of the judgment is as under:

“The appeal is hereby allowed in part by granting temporary injunction restraining the defendants from interfering with the possession of the plaintiff in “A” and “B” schedule properties except the properties covered by Ex.R.23 (physical possession of 38 cents in Sy.No.399), Ex.R.26 (physical possession of 28 cents in Sy.No.399) and Ex.R.28 (physical possession of Ac.1.00 in Sy.No.399) and Exs.R.35 to R.43. The appeal in respect of “C” and “D” schedule property was dismissed. The appeal in respect of the properties covered by Ex.R.24, R.26 and R.28 is hereby dismissed.”

Challenging the said judgment defendant No.10 filed the present revision.

At the time when the matter is taken up for hearing the learned counsel for the plaintiff placed on record the docket order dated 09.07.2015. A perusal of the docket order dated 09.07.2015 would show that on 21.08.2013 the plaintiff filed a memo stating that he is not intending to proceed against S.Laxma Reddy (revision petitioner herein), who was earlier shown as defendant No.12 and subsequently shown as defendant No.11 in view of mentioning of S.Venkatamma as defendant No.3 and 7. Memo was filed to dismiss the petition and suit against S.Laxma Reddy and the petition against S.Laxma Reddy was dismissed. But however the same could not be carried out on suit docket and the same was also not brought to the notice of the Court on subsequent date. Hence, considering the memo, the trial Court dismissed the suit against

S.Laxma Reddy. But the learned counsel for the revision petitioner submits that though the suit is dismissed against him vide docket order dated 09.07.2015, he apprehends that the order of injunction may be enforced against him as he is shown as a party in the appeal. The said fact is not disputed by the learned counsel for the plaintiff.

In view of the withdrawal of the suit against the revision petitioner the order under challenge cannot be implemented against him. Hence, the Civil Revision petition is allowed by observing that the injunction against the revision petitioner cannot be in force in view of the withdrawal of suit against him.

There shall be no order as to costs. As a sequel thereto, Miscellaneous Petitions pending if any in this Civil Revision Petition, shall stand closed.

C. PRAVEEN KUMAR, J

09.09.2015

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