

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.5393 of 2015

ORDER :

This Revision is filed challenging the order dt.07.09.2015 in I.A.No.503 of 2015 in I.A.No.638 of 2012 in O.S.No.610 of 2012 on the file of I Additional Senior Civil Judge, Warangal.

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

3. The 1st respondent/plaintiff filed the suit for a perpetual injunction restraining petitioners from interfering with his peaceful possession and enjoyment of the plaint schedule property. He also filed I.A.No.638 of 2012 under Order 39 Rules 1 and 2 C.P.C. for a temporary injunction restraining petitioners from interfering with his possession and enjoyment of the plaint schedule property, pending suit.

4. On 01.08.2012, in I.A.No.638 of 2012 interim injunction was granted in his favour by the I Additional Senior Civil Judge, Warangal.

5. After contest, the interim injunction was made absolute on 07.09.2015.

6. Thereafter, the respondent filed I.A.No.503 of

2014 under Section 151 C.P.C. seeking police aid from the Station House Officer, Police Station, Bhupalpally for implementing the above referred injunction order. He alleged that notwithstanding the Court order granting injunction in his favour, the petitioners were day-in-and-day-out trying to interfere with his peaceful possession and enjoyment of the suit schedule property. He also claimed to have given a police complaint to the Station House Officer, Police Station, Bhupalpally.

7. Counter-affidavit was filed by 1st petitioner on behalf of all the petitioners stating that the respondent was never in possession or enjoyment of the suit schedule property at any point of time, and opposing the grant of police aid to respondent.

8. By order dt.07.09.2015, the Court below allowed the said I.A.No.503 of 2015 and granted police aid to respondent. It held that merely because the petitioner nos.1 and 2 are aged persons that cannot be ground not to grant police aid to respondent; that there is a serious threat from respondents to dispossess the petitioner from the petition schedule property in spite of the order passed in I.A.No.638 of 2012; and it was a fit case to grant police aid.

9. Challenging the same, the present Revision is filed.

10. The counsel for petitioners contended that in order

to grant police aid a high degree of proof is necessary, and that since the respondent has an option to proceed under Order 39 Rule 2A and Order 21 Rule 32 C.P.C., police aid cannot be granted.

11. In Yarlagunta Bhaskar Rao and others v. Bommaji Danam and others^[1], this Court held that a party who obtained temporary injunction order pending suit and is complaining violation of such order has a choice to file not only an execution petition under Order 21 Rule 32 C.P.C. or an application under Order 39 Rule 2-A C.P.C. seeking attachment and/or arrest of the violator for Contempt of Court, but he can also seek police aid under Section 151 C.P.C. This Court further held that high degree of proof is required for grant of police aid.

12. In the present case, the very fact that petitioners are asserting that the respondent is not in possession of plaint schedule property in spite of the fact that an interim injunction was granted on 01.08.2012 in I.A.No.638 of 2012 and the same was made absolute on 07.09.2015 after giving a finding that it is the respondent who is in possession of the suit schedule property, justifies the grant of police aid to respondent for implementation of the temporary injunction order dt.07.09.2015 in I.A.No.638 of 2012. I therefore do not find any merit in the Revision and it is accordingly dismissed. No order as to costs.

13. As a sequel, miscellaneous petitions pending, if

any, in this Revision shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 11-12-2015

Ndr/*

[\[1\]](#) 2014 (1) ALD 309