

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.510 and 511 of 2015

Date: 10-12-2015

Between:

Javeed Ahmed Khan

.... Petitioner

AND

Maqsood Ahmed

.... Respondent

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Civil Revision Petition Nos.510 and 511 of 2015

COMMON ORDER:

These two Civil Revision Petitions are filed against the orders dated 02-02-2015 passed by the III Junior Civil Judge, City Civil Court, Hyderabad in I.A.No.6 of 2015 in O.S.No.32 of 2015 and I.A.No.7 of 2015 in O.S.No.33 of 2015 filed for seeking temporary injunction in a suit for permanent injunction. The learned Judge passed the order of status quo with the following observations:

“.....except placing reliance on Exs.R.1 and R-2 documents no other material placed by the respondent in support of his case. So, it is highly improbable to assume or presume the case of both parties basing on the material available on record. Unless contrary is proved, the petitioner cannot be non-suited. Though there is no need for the court to investigate into the case of the respondent and give a finding in this regard, but is to verify whether the claim put forward by him is any way superior to that of the petitioner. But, no better evidence adduced to negative the case of the petitioner.

So, this court cannot come to a vague conclusion at this stage and decide the fate of the suit. When the burden of proof is of importance only where by reason of not

discharging the burden which was put upon it, a party must eventually fail. Where however parties have joined issue and have led evidence and the conflicting evidence can be weighed to determine which way the issue can be decided, the abstract question of burden of proof becomes academic. So, the rival contentions of both parties have to be considered only after adducing evidence by both the parties. In order to know whether the petitioner is a lawful tenant of the suit schedule property or not this is not the stage to determine the case basing on the material available on record. Since the issue involved is a mixed question of fact and law, these disputed questions cannot be decided unless evidence is adduced by both parties. The rival contentions raised by both parties has to be decided on the back drop of legal scenario after commandment of trial. Considering the facts and circumstances, balance of convenience is in maintenance of status quo during the suit pendency of the proceedings.....”

In view of the same and in view of the finding of the learned III Junior Civil Judge, there is a right of appeal to the aggrieved party and the present Civil Revision Petitions are not maintainable.

The Civil Revision Petitions are dismissed, however, giving liberty to the revision petitioner to file an appeal against the impugned orders if he is so advised.

The Registry is directed to return the original documents to the revision petitioner for taking appropriate steps against the impugned orders in the competent Court.

A. RAMALINGESWARA RAO, J

Date: 10-12-2015

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