

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

CIVIL REVISION PETITION No.2305 of 2015

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ORDER:-

The first defendant/first respondent in I.A.No.49 of 2015 in O.S.No.43 of 2015 on the file of the learned Special Assistant Agent and Sub Divisional Magistrate, Mobile Court at Bhadrachalam of Khammam District ('the trial Court', for brevity), had filed this Civil Revision Petition, under Article 227 of the Constitution of India, assailing the *ex parte* order of injunction dated 28.04.2015 granted by the trial Court in respect of the house property, morefully described in the schedule annexed to the petition.

2. I have heard the submissions of the learned counsel for the petitioner/first defendant ('first defendant', for brevity) and the learned counsel for the first respondent/plaintiff ('plaintiff', for brevity). I have perused the material record.

3. The Learned counsel for the first defendant would submit that *ex parte* order of injunction is not in compliance with the provision of Order XXXIX Rule 3 of the Code and that as per the settled law, whenever an *ex parte* injunction is granted without directing notice, the Court is obliged to record reasons for dispensing with the notice, but in the impugned order, no such reasons are recorded and that the trial Court, while granting the interim order ought to have granted it for a limited period as per the settled law, but it had granted the *ex parte* injunction order till the disposal of the suit and that, therefore, the order impugned, in the facts and circumstances of the case, is liable to vacated.

4. On the other hand, the learned counsel for the plaintiff would contend that this revision is filed against the *ex parte* injunction order and that there are no special and exceptional circumstances to entertain the revision and that therefore, the petitioner may be directed to approach the trial Court and file a counter and contest the application on merits and that the impugned

order, if necessary, may be modified by limiting it to a definite period and that necessary directions may be given to the trial Court to dispose of the subject Interlocutory Application within a specified time.

5. I have perused the material record and I have bestowed my attention to the facts. I have noted the submissions.

6. The sole plaintiff brought the suit alleging that he is the owner and possessor of the suit schedule house and had sought a temporary injunction in the aforementioned interlocutory application. The trial Court, after perusing the documents and pleadings and after recording that in the circumstances of the case, if notice is issued, the delay in process would defeat the purpose of filing the suit, had granted an *ex parte* temporary injunction while directing the plaintiff to comply with Order XXXIX Rule 3 (a) of the Code and also the relevant rules under A.P.Agency Rules. However, the said injunction order was granted till the disposal of the suit, instead of limiting it to a definite period.

7. As per the settled law and the mandate of Order XXXIX Rule 3-A of the Code, whenever an *ex parte* temporary injunction is granted in an interlocutory application, the said application shall be disposed of within one month from the date on which the said *ex parte* order was granted.

8. Viewed thus, this Court finds that to meet the ends of justice, this revision can be disposed of by suitably modifying the impugned order and directing the trial Court to dispose of the Interlocutory application within one month from today.

9. Accordingly, this Civil Revision Petition is disposed of at the stage of admission, directing the trial Court to dispose of I.A.No.49 of 2015 in O.S.No.43 of 2015, within a period of one month from today, however, on merits and in accordance with the procedure established by law and after giving a fair opportunity to both the sides. It is made clear that the *ex parte* interim injunction order, which is granted by the trial Court and which is in force, shall remain in force for a period of one month only from today. In case,

the trial court is unable to dispose of the application within one month from today, the court below while making an endeavour to dispose of the application finally on merits, may consider appropriately and on merits the request, if any made by the plaintiff, for further extension of the interim order. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this petition, shall stand dismissed.

M. Seetharama Murthi, J

23rd July, 2015
Bvv

Note:-

Furnish C.C. by 28.07.2015
(B/o) Bvv