

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

CIVIL REVISION PETITION No.4400 of 2015

ORDER:

This Civil Revision Petition is preferred by the plaintiff, who instituted the suit for permanent injunction for restraining the defendants from interfering with his right, title and possession of the suit schedule property, which is a residential plot of 266 sq.yards, in a layout developed by the father of the defendants. The defence taken by the defendants/respondents is that the vendor of the plaintiff has no title, interest or possession of the said plot of land and the plaintiff without diligently verifying the title, entered into a transaction of sale of immovable property. Both Courts have concurrently found that the vendor of the plaintiff/appellant did not have any title or interest or possession of the said plot of land. In those set of circumstances, the ad interim injunction application has been dismissed by the trial Court and it was upheld by the appellate Court.

It is an essential requirement for granting an injunction that the party seeking such an injunction shall be in possession of the suit schedule property. As the plaintiff/appellant is found not in possession of the suit schedule property, balance of convenience cannot be stated to be lying in his favour.

I therefore, do not find any legal infirmity in exercise of jurisdiction carried out by the trial Court as well as the appellate Court warranting interference in the revisional jurisdiction by me. Hence, I dismiss this Civil Revision Petition. However, I could notice that the plaintiff/appellant is an 87 year-old person. Therefore, the trial Court, namely, Additional Junior Civil Judge's Court cum XVIII Metropolitan Magistrate's Court, Cyberabad at Malkajgiri, shall take up O.S.No.2 of 2013 on out of turn basis and dispose it of on merits before 31.03.2016

duly providing a fair and reasonable opportunity to both sides to lead evidence considered appropriate by them. No costs.

Consequently, Miscellaneous Petitions, if any pending, shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

23rd DECEMBER, 2015.

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