

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1919 of 2015

ORDER:

Aggrieved by an order, dated 28.04.2015, passed in I.A.No.346 of 2014 in O.S.No.85 of 2007 on the file of the Principal Junior Civil Judge, Husnabad, wherein the learned trial Judge granted police aid for implementation of the temporary injunction, pending the suit for perpetual injunction, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

The petitioners are the defendants and the respondent is the plaintiff before the trial Court. 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.85 of 2007 seeking perpetual injunction against the defendants. Along with the suit he also filed an application for grant of temporary injunction. On 06.12.2007 the trial Court granted ad-interim temporary injunction in I.A.No.336 of 2007 which was subsequently made absolute on 23.02.2010. Since the defendants deliberately disobeyed the orders, the plaintiff filed a petition under order 39 Rule-2A of C.P.C., for which the defendants were committed to civil prison on 11.02.2014. Aggrieved by the same, the defendants preferred C.M.A.No.3 of 2014 before the Senior Civil Judge, Huzurabad and the same is pending. Before filing disobedience petition, the plaintiff lodged a report against the defendants, upon which a case in Crime No.65 of 2008 of Chigurumamidi police station came to be registered. In the said crime, the police investigated

into the matter and filed a charge sheet which was taken on file as C.C.No.403 of 2008 for the offences punishable under Sections 447, 427, 506 and 504 read with 34 IPC. After hearing both sides the learned Judicial Magistrate of First Class, Husnabad, acquitted the accused. It is said that thereafter, the defendants again started creating nuisance at the schedule land. Hence, the plaintiff filed an application seeking police aid.

After hearing both sides, the learned Principal Junior Civil Judge, allowed the said petition. Challenging the same the present revision is filed by the defendants.

Heard learned counsel for the petitioners and learned counsel for the respondent.

The material on record would show that the Principal Junior Civil Judge, Husnabad, vide its order dated 23.02.2010 granted temporary injunction in favour of the plaintiff restraining the defendants and their men etc. from interfering into the possession of the plaintiff over the plaint schedule land, pending disposal of the main suit. The said order came to be passed after hearing both sides and for the reasons best known, the revision petitioners have not challenged the said order. Hence, the same became final.

The only ground raised by the learned counsel for the revision petitioners is that at the time when the revision petitioners are alleged to have trespassed into the land, the respondent herein lodged a report which came to be registered as Crime No. 65 of 2008 of Chigurumamidi Police Station for the offences punishable under Sections 447, 427, 506 and 504 read with 34 IPC. In the said case, the police investigated and filed

charge sheet, which was taken on file as C.C.No.403 of 2008 on the file of the Judicial Magistrate of First Class, Husnabad. During the course of trial in the said case, the respondent herein, who was examined as PW.1 categorically admitted that he has not submitted any document to show that he purchased the land @ Rs.1,30,000/- per acre. Further, he is said to have admitted that he has no lands beside the Sy.No.173 or in adjacent locality and that a tin shed was there in the land purchased from K.Narsimha Reddy. He admits that he is not aware about payment of tax by accused No.2 for such tin shed. He admits that there were no pass books pertaining to the schedule lands. He does not know about the mortgage of the property with Indian Overseas Bank by his vendors by keeping the pass books with the bank.

In view of the admissions made by PW.1 the learned Magistrate acquitted the revision petitioners by giving benefit of doubt. In view of the order of acquittal, the learned counsel for the defendants (revision petitioners) contended that the plaintiff (respondent) herein is not in possession of land, as such, the question of giving police protection would not arise. According to him the plaintiff is trying to occupy the land with the help of police aid.

Now the question is whether the findings of Criminal Court basing on the evidence adduced therein is binding on the Civil Court.

The issue came up for consideration before the Apex Court in ***Syed Askari Hadi Ali Augustine Imam and another v. State (Delhi Administration and another***^[1], wherein the Court held

as under:

“Axiomatically, if judgment of a civil court is not binding on a criminal court, a judgment of a criminal court will certainly not be binding on a civil court. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein.”

In view of the judgment referred to above, the argument of the learned counsel for the defendants that having regard to the findings of the Criminal Court the question of granting police protection would not arise cannot be accepted.

The issue as to when a police protection should be given came up for consideration before this Court in ***Polavarapu Nagamani vs. Parchuri Koteswara Rao***^[2] wherein, this Court held as under:

“When a petition is filed seeking police protection, whether or not to exercise of power under Section 94 (2) or Section 151 of C.P.C., the facts alleged or pleaded, an order for police protection cannot be passed in a routine manner. If an application is filed by the person obtaining ad interim injunction alleging that there is a threat of breach, disobedience or violation of the order of injunction, subject to proof, the Court has power to order police protection imposing necessary conditions not to interfere with the life and liberty, and rights of the opposite party. The standard of proof required in the case of threat of disobedience of injunction or alleged breach, disobedience or violation of an order of injunction should be very high and it should be in between the standard of beyond reasonable doubt and standard of balance on probabilities.”

As stated earlier the interim injunction granted in favour of the respondent herein has become final as the same was not

challenged. Apart from that when the defendants violated the injunction order, the plaintiff filed disobedience petition and after due enquiry, the learned trial Judge passed an order of committing the petitioners to civil prison on 11.02.2014. In view of the above, the contention of the learned counsel for the plaintiff that the defendants are interfering with the possession of the plaintiff cannot be brushed aside at this stage. Under those circumstances, the order granting police protection warrants no interference. It is needless to mention that the trial Court is directed to dispose of the suit as expeditiously as possible, since it is of the year 2007.

Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs. Miscellaneous Petition, if any, pending in this Civil Revision Petition, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

10.07.2015
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[\[1\]](#) AIR 2009 (SC) 3232

[\[2\]](#) ALT 2010 (6) 92