

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH**

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CIVIL REVISION PETITION No.2757 OF 2015

Between:

Karingu yadagiri and others

....Petitioners/Defendants

And

Koya Prabhakar Reddy

....Respondent/Plaintiff

DATE OF JUDGMENT PRONOUNCED: 18.08.2015.

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE G. CHANDRAIAH

AND

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 2 | Whether the copies of judgment may be marked to Law Reporters/Journals? | Yes/No |
| 3 | Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment? | Yes/No |

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

CIVIL REVISION PETITION No.2757 OF 2015

ORDER:

This Civil Revision Petition is filed by the petitioners/ defendants against the order dated 15.06.2015, passed by the Senior Civil Judge, Nalgonda, in I.A.No.627 of 2015 in I.A.No.1181 of 2014 in O.S.No.502

of 2014, wherein and whereby the application filed by the respondent/plaintiff under Section 151 of CPC seeking to direct the Station House Officer, Nalgonda Rural to provide police protection over the suit schedule lands, was allowed.

The brief facts of the case are that the respondent/plaintiff filed a suit in O.S.No.502 of 2014, on the file of the Senior Civil Judge, Nalgonda, for granting of a permanent injunction restraining the defendants, their henchmen, servants, relatives from causing interference with the peaceful possession and enjoyment of the suit schedule property of the plaintiff. Along with the suit, the plaintiff had also filed an application in I.A.No.1185 of 2014 under Order XXXIX Rules 1 and 2 C.P.C seeking a temporary injunction.

As per the averments of the plaint, the case of the respondent/plaintiff is that his father Sri Koya Ranga Reddy had purchased the suit schedule property over an extent of Ac.1.24 cents in Sy.No.625/E of Narsinghatla Revenue Village, Nalgonda Mandal and District, from the 2nd defendant/Yakalpu Hussain for valuable consideration through a registered sale deed bearing Document No.5012 of 2009 dated 26.06.2009. Pursuant to the sale deed, the plaintiff's father obtained the possession and thereafter on the demise of the father of the plaintiff, the plaintiff came to be in possession and enjoyment of the said agricultural land. Along with the said land, the father of the plaintiff had also purchased 10 feet Cart way which is meant for ingress and egress of the plaintiff. It is further averred in the plaint that prior to the said purchase, the father of the plaintiff had entered into an agreement of sale with the 2nd defendant/Vendor vide agreement dated 28.11.2008, for selling the 10 feet cart way along with his share of Ac.1.24 cents of the land. The defendants among themselves had partitioned the land and were enjoying their shares independently. It is stated that while partitioning the property, all the brothers of the defendants jointly agreed through an agreement dated

03.09.2008 to leave 10 feet way through their lands to enable each of the defendants to go to their respective share of the land. In the said agreement, it was recited that the purchasers would also be bound by the said agreement.

Originally, the suit along with the interlocutory application seeking temporary injunction was filed in the month of September, 2014 and when the interlocutory application came up for appearance and filing counter on 16.12.2014, neither the defendants in person nor their counsel did not appear before the court below and consequently the defendants were set *ex parte* and the temporary injunction was granted in favour of the plaintiff and against the defendants. Thereafter, on 8.6.2015, the respondent/plaintiff filed an application in I.A.No.627 of 2015 alleging interference of the defendants and sought a direction to the Station House Officer, Nalgonda Rural, to provide police protection enabling the plaintiff to proceed with his possession and enjoyment of the suit schedule property. The said I.A was allowed by the Court below by an order dated 15.06.2015. Aggrieved thereby, the present Civil Revision Petition is filed.

Heard Sri K. Jagadishwar Reddy, learned counsel for the petitioners/defendants and Sri E. Poornachander Rao, learned counsel for the respondent/plaintiff.

The learned counsel for the petitioners/defendants strenuously contended that the defendants had filed an application to set aside the *ex parte* order dated 16.12.2014 passed against them apart from filing a counter in I.A.No.627 of 2015. He further submits that the Counter filed by the defendants has not been taken into consideration by the learned Senior Civil Judge, Nalgonda and the learned Senior civil Judge instead of considering and setting aside the *ex parte* order dated 16.12.2014, had proceeded to pass orders in I.A.No.627 of 2015. The course adopted by the learned Senior Civil Judge is clearly erroneous

and the order dated 16.12.2014, passed by the Court below in I.A.No.1181 of 2014 having not been made absolute, granting of police protection vide order dated 15.06.2015 in I.A.No.627 of 2015 to the plaintiff in a casual manner is highly arbitrary and illegal and thus it is liable to be set aside. Learned counsel for the petitioners/defendants places reliance on the judgments of this Court reported in **Polavarapu Nagamani and others v. Parchuri Koteswara Rao and others** and **Bijiga Papa Rao and others v. Jonnalagadda Srinivasa Rao** to support his contentions.

On the other hand, the learned counsel for the respondent/plaintiff submits that in spite of the fact that the respondent/plaintiff filed a caveat on 06.07.2015, this Court while ordering notice before admission granted interim stay of the order dated 15.06.2015, passed by the Court below in I.A.No.627 of 2015, violating the settled principles of law as interpreted by this Court in numerous judgments. Further, the learned counsel for the respondent/plaintiff submits that the 2nd petitioner/defendant having sold his share of land at the instance of the other petitioners/defendants with an oblique motive are obstructing the peaceful possession and enjoyment of the respondent/plaintiff's land which is admittedly purchased by the respondent's father. The learned counsel also places reliance on the agreement dated 03.09.2008 wherein the petitioners among themselves had come to an understanding that in the event of any part of the land is sold to third parties, the benefit of usage of common passage would enure to such purchasers as well. The learned counsel further submits that the very conduct of the petitioners/defendants in interfering with the peaceful possession and enjoyment of the land purchased by the respondent/plaintiff is evident from the fact that on this Court granting of interim stay on 17.07.2015 even without a copy of the order being made available to the petitioners, petitioners went ahead and dug up the entire cart way and thereby creating hindrance to the

respondent/plaintiff denying access to his land. The learned counsel for the respondent/plaintiff places reliance on the photographs of the suit schedule property to evidence the fact of digging up of the suit schedule property. Learned counsel also submits that though the suit was filed in the month of September, 2014, except filing of Vakalat, the petitioners/defendants did not even choose to file the counter in I.A.No.1181 of 2014 and conveniently opposing the Court below from passing any orders for a period of three months. After granting sufficient time to the petitioners and considering the urgency in the matter, the Court below had granted an ad-interim order on 16.12.2014 in I.A.No.1181 of 2014. Learned counsel while placing reliance on the judgments of this Court reported in **Rayapati Audemma v. Pothineni Narasimham** and **Hindustan Petroleum Corporation Limited vs. Government of A.P and others**, has contended that the Courts have inherent powers to grant police aid for implementation of its orders.

Perused the entire material available on record. This Court while ordering notice before admission, granted interim stay on 17.07.2015 for period of four weeks. At the time when the Civil Revision Petition was listed, there was no indication or mention about filing of the Caveat petition before this Court on 06.07.2015. Verification of the record reveals that the present civil revision petition came to be filed on 08.06.2015. Though there is a possibility of receiving the notices by the petitioners in Caveat petition, there is equal possibility of their not receiving notices, which came to be dispatched on 6.7.2015, Registry ought to have noticed about the factum of a Caveat having been lodged and registered on 6.7.2015. In that view of the matter, the order dated 17.07.2015 can be said to have been obtained behind the back of the respondent. However, the order should not cause prejudice to the Caveat petitioner. In that view of the matter and considering the narrow compass within which the controversy is to be decided, with the consent of the parties, the main Civil Revision

Petition itself is taken up for hearing and the respective counsel have made their submissions as recorded supra. In that view of the matter, I do not wish to enter into the controversy about the interim stay dated 17.07.2015, granted by this Court.

Though the learned counsel for the petitioners/defendants had strenuously contended that the Court below ought not to have passed the order impugned without first considering the application filed to set aside the *ex parte* order dated 16.12.2014, I am unable to accept the said contention. Firstly, though the petitioners stated that they had filed an application seeking to set aside the *ex parte* order dated 16.12.2014, there are no details such as when the application to set aside the *ex parte* order was filed and whether the same was numbered etc. Further, the order dated 16.12.2014, came to be passed by the Court below in I.A.No.1181 of 2014, after setting the petitioners *ex parte*. Though the said order was made on 16.12.2014, no steps were taken immediately by the petitioners/defendants by filing an application seeking to set aside the *ex parte* order. It is only after the respondent/plaintiff filed I.A.No.627 of 2015 on 8.6.2015 seeking police aid, the petitioners/defendants filed an application seeking permission of the Court below to file counter in I.A.No.1181 of 2014, on which date I.A.No.627 of 2015, was ordered. Nothing prevented the petitioners from moving an application immediately on 16.12.2014 or immediately thereafter. Coupled with this, as stated supra, there are no details with regard to the steps taken by the petitioners by filing counter in I.A.No.1181 of 2014. Further, admittedly the suit came to be filed in the month of September, 2014 and by the end of December, 2014, three months time for filing written statement in the suit had also elapsed, even assuming that the petitioners could have received the notices in the suit on some time later. Admittedly even as on today no written statement has been filed in the suit.

The specific arguments advanced by the counsel for the

respondent/plaintiff that after this Court granted interim stay of the orders in I.A.No.627 of 2015 on 17.07.2015, petitioners had dug the cart way is not denied. There is also no denial on the part of the petitioners' counsel with regard to the photographs of the suit schedule property which have been placed before this Court to show that the cart way having been dug up. In other words, the petitioners are only deliberately playing with the system and trying to take advantage of the judicial pronouncements where the Courts have held in normal circumstances Courts should be slow in granting police aid for implementation of its orders. In the facts and circumstances of the present case, there is every justification for the Court to take into consideration of the facts as placed before it and make appropriate orders to extend the protective hand to implement its own orders effectively. As held by this Court in **Bijiga Papa Rao Case** (2 supra), it is the duty of the Court to ensure that its orders are implemented and thereby creating confidence in the minds of the people by safeguarding the sanctity of the orders passed by the Court. In the facts of the present case, one cannot say that the order dated 15.06.2015, passed by the Court below in I.A.No.627 of 2015, is erroneous.

However, the entire controversy could have been avoided if only a little more reasoned order was made by the learned Senior Civil Judge while passing the orders of this nature. In the circumstances, the interim order dated 17.07.2015, granted by this Court is liable to be vacated and the civil revision petition is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. However, the observations made in this order while disposing of the revision petition shall not be construed as expressing any opinion with respect to the merits of the matter while considering the suit or any interlocutory applications and the Court below shall dispose of the suit

or any interlocutory applications on merits and in accordance with the law. No order as to costs.

Miscellaneous Petitions, if any, pending in this civil revision petition, shall stand dismissed.

CHALLA KODANDA RAM, J

Date:18.08.2015.
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After pronouncement of the order, learned counsel for the petitioners submits that a direction may be given to the Court below to dispose of the pending Interlocutory Applications, if any.

Having considered the submission made by the learned counsel for the petitioners, the learned Senior Civil Judge, Nalgonda, is directed to dispose of the pending Interlocutory Applications, if any, in accordance with law, as early as possible.

CHALLA KODANDA RAM, J

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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