

THE HON'BLE SRI JUSTICE A.V. SESA SAI

CIVIL REVISION PETITION No.2449 of 2014

ORDER:

Plaintiff in O.S.No.221 of 2008 on the file of the Principal Junior Civil Judge, Karimnagar is the petitioner in the present revision filed under Article 227 of Constitution of India.

In the present revision challenge is to the order, dated 08-05-2014 passed by the said Court, allowing the I.A.No.615 of 2014 filed by the defendants/respondents herein.

Heard Sri K. Venumadhav, learned counsel for the petitioner and Sri V. Ravi Kiran Rao, learned counsel for the defendants/respondents apart from perusing the material available before the Court.

The petitioner herein instituted the present suit in O.S.No.221 of 2008 against the respondents herein for perpetual injunction in respect of the suit schedule property admeasuring 550 Sq. yards in Sy.No.1375 situated at Subashnagar locality of Karimnagar town. In the said suit the defendants/ respondents herein filed present I.A.No.615 of 2014 under Section 151 of the Code of Civil Procedure for a direction to the plaintiff/petitioner herein not to change the nature of the suit schedule property by making any type of constructions till the disposal of the suit.

The petitioner herein filed counter resisting the said

application. The learned Prl. Junior Civil Judge, Karimnagar allowed the said application by virtue of an order, dated 08-05-2014.

Aggrieved by the said order passed by the learned Prl. Junior Civil Judge, the present revision has been filed under Article 227 of the Constitution of India.

It is contended by the learned counsel for the plaintiff/petitioner herein that the order under revision is erroneous, contrary to law and is opposed to the settled prepositions of law. It is further contended by the learned counsel for the petitioner that in view of non-extension of order of injunction beyond 30-07-2008 in I.A.No.1342 of 2008 in O.S.No.215 of 2008 filed by the respondents herein, the present order passed by the Court below is unsustainable and untenable in the eye of law. It is nextly argued by the learned counsel that as the order of injunction ordered by the Court below is still subsisting in favour of the petitioner the order under revision cannot be sustained.

On the contrary, it is contended by the learned counsel for the respondents that the Court below is perfectly justified in passing the impugned order and there is no illegality nor any material infirmity in the order passed by the learned Prl. Junior Civil Judge and in absence of any jurisdictional error, it is not open for the petitioner herein to assail the order under revision under Article 227 of the Constitution of India. It is also argued by the learned counsel that in the facts and circumstances of the case

the Court below is perfectly be justified in passing the impugned order, directing the parties not to change the nature of the suit schedule property and not to make any construction till disposal of the main suit.

In the above background now the question that emerges for consideration of this Court in the present revision is:

Whether the order passed by the learned Prl. Junior Civil Judge is in accordance with law?

A perusal of the material available before this Court manifestly discloses that the petitioner herein instituted the present suit in O.S.No.221 of 2008 and along with the suit he filed I.A.No.1368 of 2008 under the provisions of Order 39 Rules 1 and 2 r/w.151 of the C.P.C., seeking *ad interim* injunction. In the said I.A., learned Prl. Junior Civil Judge granted *ex parte* interim injunction against the respondents herein and the same is subsisting as on today. It is also to be noted that the respondents herein also instituted O.S.No.215 of 2008 before the Court below against the petitioner herein in respect of the same subject matter for perpetual injunction. In the said suit the respondents herein filed I.A.No.1342 of 2008 for interim injunction. The Court below granted *ex parte* interim injunction for a period of two (2) weeks on 14-07-2008. Thereafter the respondents herein also filed I.A.No.1735 of 2008 for Police aid. The learned Prl. Junior Civil Judge allowed the said application.

Challenging the said order the petitioner herein filed

C.R.P.No.1203 of 2014 before this Court. This Court by way of an order, dated 17-06-2014, allowed the said C.R.P.No.1203 of 2014, setting aside the order passed by the Court below in I.A.No.1735 of 2008 and while setting aside the said order this Court directed the parties to maintain *status quo* with regard to the suit property till disposal of their respective injunction petitions. There is absolutely no dispute with regard to the fact that the injunction applications filed by the parties before the Court below in their respective suits are still pending consideration.

The learned Prl. Junior Civil Judge obviously taking into consideration of these aspects, passed the impugned order, directing the petitioner herein not to change the nature of the suit property and not to make any constructions till disposal of the main suit. While passing the order under revision the learned Prl. Junior Civil Judge thoroughly and meticulously considered all the relevant aspects and assigned the cogent and convincing reasons. It is settled and well established principle of law that unless the order impugned suffers from jurisdictional error, the invocation of jurisdiction by this Court under Article 227 of the Constitution of India is impermissible.

In view of the above said reasons and for the reasons recorded by the Court below, this Court is neither persuaded nor inclined to meddle with the impugned order passed by the Court below.

For the aforesaid reasons, the Civil Revision Petition is

dismissed. There shall be no order as to costs.

In view of the nature of controversy and as the suits are pending consideration before the Court below for a considerable length of time, this Court deems it appropriate to direct the learned Prl. Junior Civil Judge, Karimnagar to dispose of O.S.Nos.215 and 221 of 2008, as expeditiously as possible, preferably within a period of six (6) months from the date of receipt of a copy of this order.

The Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

A.V. SESA SAI, J

March 02, 2015

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THE HON'BLE SRI JUSTICE A.V. SESA SAI

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