

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1177 of 2016

ORDER:

Assailing the order dated 09.02.2016 passed in I.A.No.38 of 2016 in O.S.No.78 of 2005 on the file of the Principal Junior Civil Judge, Karimnagar, the present Civil Revision Petition is filed under Article 227 of the Constitution of India, wherein and whereunder an application filed under Order XVI Rule 7 of C.P.C. seeking issuance of summons to the Inspector of Police to give evidence with regard to F.I.R.No.82 of 2012 of Karimnagar II Town Police Station was rejected.

The facts in issue are as under:

The petitioner/plaintiff filed O.S.No.78 of 2005 seeking perpetual injunction restraining the defendants from evicting the suit schedule property. Along with the suit the petitioner also filed an application seeking ad-interim temporary injunction. The trial Court granted ad-interim temporary injunction restraining the respondents/defendants from evicting the petitioner from the suit schedule property. During pendency of the suit, on 11.04.2012 the respondents are alleged to have trespassed into the leased property and damaged the plants, as such, the petitioner filed I.A.No.512 of 2012 for breach of injunction. The petitioner also lodged a

complaint before the Karimnagar II Town Police Station which came to be registered as Crime No.82 of 2012 for the offences punishable under Sections 447, 427, 324 and 506 read with 34 IPC. After investigation the police filed charge sheet which came to be numbered as C.C.No.242 of 2013 on the file of the Special Judicial Magistrate of First Class, Excise, Karimnagar. Hence, the petitioner filed an application seeking issuance of summons to the Inspector of Police to prove the alleged act of trespass. After considering the rival submissions, the trial Court passed the impugned order.

Learned counsel for the petitioner submits that summoning of the Inspector of Police is necessary to prove the alleged trespass made by the defendants.

As seen from the material on record, the incident which is subject matter of alleged trespass is covered by the F.I.R. which was issued in the year 2012, whereas the present suit is of the year 2005. For the purpose of the reliefs claimed in the suit the facts and circumstances existing as on the date of filing of the suit are only relevant and the incident which happened subsequent to filing of the suit is irrelevant. That being the position, the question of summoning the Inspector of Police to speak about the incident which took place in the year 2012, long after filing of the suit, is irrelevant. Hence I see no merits in the revision and the same is liable to be

dismissed.

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

11.03.2016

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