

HONOURABLE SRI JUSTICE S.RAVI KUMAR
CIVIL MISCELLANEOUS APPEAL No.526 OF 2015

Dated 8-7-2016

Between:

Sri Raghavendraswamy Mutt.

..Appellant.

And:

Ulthi Veerabhadrapa.

..Respondents.

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HONOURABLE SRI JUSTICE S.RAVI KUMAR
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JUDGMENT:

This appeal is preferred questioning order dated 20th March, 2015 in I.A.No.431 of 2014 in O.S.No.26 of 2014 on the file of II Additional District Judge, Kurnool at Adoni.

Appellant herein is second defendant and first respondent herein is plaintiff and second respondent herein is first defendant in the above referred suit and they are hereinafter referred to as arrayed in the suit for sake of convenience.

Plaintiff filed the above suit for relief of permanent injunction contending that they are in peaceful possession and enjoyment of land in S.No.352 in an extent of Ac.18.85 cents. He contended that in the month of February, 1983, Manager of the second defendant mutt in the presence of Assistant Commissioner for Endowments, Kurnool, conducted public auction and plaintiff became highest bidder for Rs.2,460/- per acre and plaintiff deposited the amount as per the condition and the mutt authority delivered possession of plaint schedule property to the plaintiff and since then, he is in peaceful possession

and enjoyment of the property. He contended that in the year 1987, mutt authorities sent a notice to the plaintiff stating that the Commissioner for Endowments has not confirmed the sale and thereafter, plaintiff filed writ petition and again appeal before the Government challenging the action in not confirming the sale. It is further stated that in the year 2004, notice was given to auction leasehold rights and then plaintiff filed writ and obtained stay and D.2 again issued notice on 16-4-2014 for auctioning the leasehold rights and plaintiff again filed a writ before the High Court and as there is threat of dispossession and trespass, the suit is filed seeking permanent injunction restraining the defendants from dispossessing the plaintiff without following due process of law.

Pending disposal of the suit, plaintiff claimed interim injunction.

Appellant filed counter, according to which, possession was not delivered to the plaintiff after the action and the property was kept as barren land till 1987 and that appellant is the owner of the property which has got legal right and the plaintiff has no locus standi to file the suit as plaintiff has no right over the suit property. Appellant denied the alleged threat and contended that the plaintiff suppressed truth and material facts and therefore, not entitled for the equitable relief of injunction.

On these contentions, trial court by considering the documentary evidence produced on behalf of plaintiff, allowed the application and granted temporary injunction by recording a finding that the plaintiff is in continuous possession of property from 1983 till the date of filing of the suit. Aggrieved by the same, present appeal is preferred.

Heard both sides.

Both sides submitted their arguments supporting

respective contentions of their parties.

Now the point that would arise for my consideration in this appeal is whether the order of court below is legal, correct and proper?

POINT:

From the pleadings of both parties, it is undisputed fact that in the auction held in the year 1983, plaintiff was highest bidder and paid the bid amount. It is also not in dispute that sale conducted by the mutt has to be confirmed by Commissioner of Endowments and in this case, such a confirmation was not made.

As seen from the material, there are series of proceedings between the parties, whenever appellant contemplated some action to auction the leasehold rights, same was challenged and some orders are passed in favour of plaintiff.

From a perusal of documents particularly revenue records, prima facie it is clear that the plaintiff is in continuous uninterrupted possession from 1983 till filing of the suit.

Now the contention of the appellant is that as it is the owner and got legal right, plaintiff cannot obtain injunction against it.

As seen from the prayer in the plaint, injunction is sought only till plaintiff is evicted under due process of law. It is well known principle that a person cannot be dispossessed forcibly by taking law into hands and unless such person is evicted under due process of law, he has to be protected.

From a perusal of the adangal copies and the land revenue receipts, it is clear that plaintiff is in possession of plaint schedule property from 1983 till filing of the suit and

made it fit for cultivation. It is also clear from the record that he entered into possession of the property as auction purchaser being highest bidder. Considering these aspects, trial court held that prima facie case is in favour of plaintiff, so also balance of convenience and therefore, granted temporary injunction.

I do not find any wrong in the order of the trial court and on a perusal of the material, I am of the view that it is a well considered order and that there are no grounds to interfere with the same.

For these reasons, appeal is dismissed confirming the orders of the trial court. No costs.

As a sequel to the disposal of this appeal, Miscellaneous Petitions, if any, pending, shall stand dismissed.

JUSTICE

S.RAVI KUMAR

Dated 8-7-2016.

Dvs.

HONOURABLE SRI JUSTICE S.RAVI KUMAR

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