

THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CIVIL REVISION PETITION No.2059 of 2016

ORDER:

This Civil Revision Petition is filed by the petitioner/defendant, under Article 227 of the Constitution of India, assailing the Order dt. 11.03.2016 in I.A.No.86 of 2016 in I.A.No.148 of 2014 in O.S.No.273 of 2014 on the file of Sub Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam, Khammam District, whereunder the trial Court granted police aid to the respondent/plaintiff herein.

2. The factual matrix of the case is thus:

The respondent/plaintiff herein filed O.S.No.273 of 2014 against the petitioner/defendant seeking perpetual injunction in respect of suit schedule property, which is an agricultural land admeasuring Ac.1.16 gts in S.No.62/67/2 situated at Somulagudem Village of Palvanha Revenue Mandal, Khammam District. In the said suit, he filed I.A.No.148 of 2014 seeking interim injunction. The Trial Court in its Order Dt.5.08.2014 granted *status quo* until further Orders. Thereafter, it appears, the respondent/plaintiff filed I.A.No.86 of 2016 for grant of Police Aid and under the impugned Order dt. 11.03.2016, the trial Court granted police aid to the petitioner/defendant.

Hence, the instant Civil Revision Petition by the petitioner/defendant.

3. The grievance of the petitioner/defendant herein is that he filed O.S.No.331 of 2013 against the present respondent/plaintiff, seeking perpetual injunction in respect of the same suit land of Ac.1.06 guntas in Sy.No.62/67/2 of Somulagudem Village and in the said suit, he filed I.A.No.236 of 2013 seeking interim injunction and the trial Court in its Order dt. 30.12.2013 granted interim injunction until disposal of the suit and the said Order has been in force and continuing even by the date of the impugned Order dt.11.03.2016. His submission is that the petitioner was not given opportunity to bring it to the notice of the trial Court about the injunction order passed in his favour since the impugned Order was passed without notice and *ex parte* and he came to know about the said Orders only after police came to the land. Therefore, in the C.R.P., the petitioner/defendant seeks to set aside the impugned Order dt. 11.03.2016 in granting Police Aid.

4. Heard both sides.

5. Learned Counsel for Petitioner, during the course of arguments, has reiterated the facts as narrated above.

6. Per contra, learned counsel for respondent/plaintiff would submit that copy of the impugned Order was sent to the petitioner/defendant through his counsel and therefore, it is preposterous for the petitioner to contend that he had no

knowledge about the Order. He submitted that if the Police Aid is revoked, the petitioner would meddle with his land and will not allow him to undertake agricultural operations in the said land.

7. In the light of the above rival arguments, the point for determination is:

‘Whether there are merits in this petition to allow ?

8. **POINT:** The petitioner/defendant earlier filed O.S.No.331 of 2013 against the present respondent/plaintiff and in I.A.No.236 of 2013, the trial Court in its Order dt. 30.12.2013 granted interim injunction. No record is produced to show that the said Order was vacated subsequently. Therefore, it shall be deemed that the said Order is still in force. Record further shows that the respondent/plaintiff subsequently filed O.S.No.273 of 2014 against the petitioner/defendant in respect of the same property and in I.A.No.148 of 2014, *status quo* order was passed by the trial Court on 05.08.2014 *ex parte*. Thereafter, in I.A.No.86 of 2016, the trial Court granted police aid to the respondent/plaintiff. Therefore, the present melee between both parties is by virtue of the two diametrically opposite orders in respect of the same property and between the same parties.

9. In that view of the matter, the Police Aid granted subsequently in favour of the respondent/plaintiff dt. 11.03.2016 in I.A.No.86 of 2016 in O.S.No.273 of 2014 cannot

be continued. The impasse can only be resolved by directing the trial Court to hear I.A.No.236 of 2013 in O.S.No.331 of 2013 filed by the present Petitioner/defendant and I.A.No.148 of 2014 in O.S.No.273 of 2014 filed by the present respondent/plaintiff together and pass appropriate orders on merits since both the petitioners are seeking interim injunctions. Therefore, the trial Court is directed to hear the above two petitions conjunctively and pass appropriate Orders within a period of one month from the date of receipt of copy of this Order. Consequently, this Civil Revision Petition is allowed and the Police Aid granted in I.A.No.86 of 2016 is set aside and both parties are directed to maintain *status quo* as on today till the orders are passed in the above said injunction petitions by the trial Court. No costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

U.DURGA PRASAD RAO, J

Dt: 15.07.2016

Note: Issue C.C. today.

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