

THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

CIVIL REVISION PETITION No. 4293 of 2015

ORDER:

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This Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 09.07.2015 passed by the Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-VI Additional District Judge, Kurnool, in C.M.A.No.3 of 2014.

The facts in issue are that the petitioner herein filed O.S.No.427 of 2013 on the file of the Principal Junior Civil Judge, Kurnool, for permanent injunction restraining the respondents herein, their men, successors, agents or anybody on their behalf from trespassing into or in any way interfering with her peaceful possession and enjoyment of the suit schedule property. The petitioner also filed I.A.No.821 of 2013 for temporary injunction. By an order dated 20.01.2014, the trial Court dismissed the said application. Questioning the same, the petitioner preferred C.M.A.No.3 of 2014 on the file of the Special Judge for Trial of Cases under SCs & STs (POA) Act-cum-VI Additional District Judge, Kurnool, which was also dismissed on 09.07.2015. Being aggrieved by the same, the petitioner filed the civil revision petition.

Heard learned counsel for the petitioner and learned counsel for the respondents.

As seen from the material placed on record, the trial Court initially granted ad interim injunction in favour of the petitioner on 30.10.2013 relying on the documents filed by her. Thereafter, since the petitioner failed to prove prima facie case and balance of convenience in her favour and the irreparable loss that may be caused to her and also her peaceful possession of the suit schedule property as on the date of filing of the suit, after full-fledged enquiry and on perusal of Exs.P.1 to P.5 and Exs.R.1 to R.14, the trial Court held that

the documents filed by the petitioner themselves are creating a doubt as to the nature of possession of the schedule property by her as to whether it was purchased by her under a gift deed or a sale deed, and that when the total extent of Survey No.704 and 729 of Chanugondla Village is Ac.1.41 cents, she is claiming her right over Ac.1.39 cents only, and as such, she is not entitled for temporary injunction and, accordingly, dismissed the application. The appellate Court, by re-appreciating the entire evidence adduced by both the parties, came to the conclusion that basing upon few entries in adangals, without explaining the source of title to the husband of the petitioner, injunction cannot be granted in her favour and, accordingly, dismissed the appeal, while confirming the order of the trial Court. No infirmity is brought to the notice of this Court in the orders passed by the Courts below. Both the Courts below have discussed the evidence adduced by both the parties in proper perspective, and as such, no interference is warranted to disturb the concurrent findings of fact arrived at by the Courts below, by exercising the power under Article 227 of the Constitution of India. In view of the same, I do not see any merit in the revision and the same is liable to be dismissed.

Accordingly, the Civil Revision Petition is dismissed. However, as the suit is filed for the relief of injunction simpliciter, the Principal Junior Civil Judge, Kurnool, is directed to dispose of O.S.No.427 of 2013, without being influenced by any of the above observations made herein as they are made only to decide the civil revision petition arising out of interlocutory order, as expeditiously as possible, preferably, within a period of six (6) months from the date of receipt of a copy of the order. There shall be no order as to costs.

Consequently, miscellaneous petitions, if any, pending in the revision petition shall also stand dismissed.

A. RAJASHEKER REDDY, J.

28th January, 2016

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