

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.5207 of 2016

ORDER:

This civil revision petition is filed Article 227 of the Constitution of India challenging the docket order dated 22.9.2016 passed in I.A.No.76 of 2016 in I.A. No.36 of 2015 in O.S. No.13 of 2015 on the file of court of Principal Junior Civil Judge, Kothagudem.

2. The petitioner is the plaintiff and the respondent Nos.1 to 3 are defendant Nos.1 to 3 in O.S. No.13 of 2015. He filed the suit for perpetual injunction against the respondents in respect of an extent of Acs.2.05 guntas in survey No.856/A of Nellipaka Village, Aswapuram Mandal, Khammam District. Along with the suit, he filed I.A. No.36 of 2015 under Order XXXIX Rules 1 and 2 of CPC seeking *ad interim* injunction. During the pendency of I.A. No.36 of 2015, the petitioner filed I.A. No.76 of 2016 to call for the letter dated 08.8.2015 addressed by the Sub-Inspector of Police, Aswapuram Police Station to the Tahsildar, Awapuram. The trial court, by the impugned order, dismissed the petition. Hence, the present revision petition is filed.

3. The contention of the learned counsel for the petitioner is two fold: (1) the trial court dismissed the petition on assumptions and presumptions; and (2) if the order of the trial court is allowed to stand, it would amount to miscarriage of justice.

4. Since the point involved in this revision is very narrow in nature, I am inclined to dispose of the same at the stage of admission.

5. A perusal of the record reveals that the trial court, while dismissing the petition, made an observation that whether the petitioner had requested the Tahsildar, Aswapuram either orally or in writing, seeking copy of the letter dated 08.8.2015. The learned counsel for the petitioner submitted that the letter throw some light to establish that the respondents are interfering with the suit schedule property. It is a settled principle of law that in a suit for perpetual injunction, the plaintiff has to establish his possession over the suit schedule property as on the date of filing of the suit. Suffice it to say, that a person, who seeks *ad interim* injunction, has to satisfy the court that *prima facie* case and balance of convenience are in his favour and that if no injunction is granted, it may cause untold hardship to him. That being the factual and legal position, the so-called letter dated 08.8.2015 addressed by the Sub-Inspector of Police, Aswapuram Police Station to the Tahsildar, Aswapuram is no way helpful to the petitioner to establish the *prima facie* case in his favour or to establish that he was in possession of the suit schedule property as on the date of filing of the suit.

6. Even if the document is called for, that may not helpful to the court to decide the *lis* involved between the parties. In such circumstances, calling for the letter dated 08.8.2015 is a futile exercise. The trial court has considered all these aspects in right perspective and dismissed the petition.

7. Taking into consideration the facts and circumstances of the case, I am unable to accept the contention of the learned counsel for the petitioner that if the order of the trial is allowed to stand, it

would amount to miscarriage of justice. The revision petition lacks merits and bona fides.

8. Hence, the civil revision petition is dismissed, at the admission stage. Miscellaneous petitions if any pending in the revision petition shall stand closed.

T.SUNIL CHOWDARY, J

November 29, 2016.

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