

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

Civil Revision Petition No.4320 of 2015

ORDER:

This civil revision petition by the unsuccessful defendants filed under Article 227 of the Constitution of India is directed against the order dated 07.07.2015 of the learned Judge, Family Court-cum-VII Additional District Judge, Medak at Sangareddy passed in C.M.A.no.4 of 2015, whereby the learned Additional District Judge had confirmed the order and decretal order of the learned Principal Junior Civil Judge, Sangareddy passed in I.A.no.1070 of 2014 in O.S.no.195 of 2014 filed under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 ('the Code', for brevity) for grant of a temporary injunction restraining the respondents/defendants, their henchmen etcetera from interfering with the plaintiff's peaceful possession and enjoyment of the open plot bearing no.77 in Sy.no.55, 56, 82 and 85 admeasuring 300 square yards situated at Ramaraju Nagar, Muthangi village, Patancheru Mandal of Medak District, more fully described in the schedule annexed to the petition.

2. I have heard the submissions of the learned counsel for the parties. I have perused the material record.

3. The plaintiff having brought a suit for perpetual injunction had filed the interlocutory application aforementioned for grant of a temporary injunction. The defendant having filed a counter had resisted the said application. At the time of enquiry before the trial Court, exhibits P1 to P9 and R1 to R20 were marked. No oral evidence was adduced. On merits, the trial Court had allowed the interlocutory application of the plaintiff and had made absolute, the *ex parte* ad-interim injunction granted in favour of the plaintiff. The learned Additional District Judge, while confirming the said orders of the trial Court, had dismissed the aforementioned CMA filed by the defendants. Therefore, the unsuccessful defendants are before this Court.

4. The case of the plaintiff, in brief, is this:

The plaintiff had purchased the plaint schedule property/plot under a registered sale deed dated 20.01.2014. The plaintiff's vendors, in turn, had purchased the said property from the original owners, namely, G.Latchi Raju and K.Sadasiva Rao under an agreement of sale of the year 2001. They (the plaintiff's vendors) having filed a suit for specific performance had obtained a decree. The said suit for specific performance was decreed on 14.11.2011. Thereafter, a regular registered sale deed dated 5.11.2012 was executed as per orders in E.P.no.23 of 23 of 2011 in O.S.no.69 of 2010. That sale deed was executed by the Court of execution pursuant to the said decree in the said suit for specific performance. Since the date of the said purchase, the plaintiff was and is in possession and enjoyment of the plaint schedule plot along with other plots. The plaintiff is a *bona fide* purchaser. He had engaged labourers and invested money to make the surface of the plot clear and clean and made it suitable for construction of a residential building. The Gram Panchayat had accorded permission for construction. After due verification of the documents of the plaintiff, the permission for construction was granted vide permit no.GPM/108/2013-2014 dated 22.02.2014. Having thus obtained permission, the plaintiff had started making construction in the plaint schedule property. While so, on 28.02.2014, even as the workers engaged by the plaintiff were digging the pits, the respondents 1 and 2 had tried to dispossess the plaintiff and occupy the suit plot. Therefore, the suit and the interlocutory application are filed.

5. The case of the defendants, in brief, is this:

The 2nd defendant is the absolute owner and possessor of the plot bearing no.77 in Sy.nos.53 and 54 admeasuring 200 square yards situated at Muthangi village of Patancheru Mandal of Medak District. He had purchased the same for valuable consideration from his vendor, by name, Sanjay Kumar Singh, vide registered sale deed dated 22.03.2007 bearing document no.7243 of 2007. The vendor of the 1st defendant had purchased plot no.77 from Lachi Raju under registered sale deed dated 10.02.2006. On

14.01.2013, when the 2nd defendant and his family members had started ground leveling work in order to perform Bhoomi Pooja, the vendors of the plaintiff, namely Zahid Ali and B.Anasuya Reddy along with their henchmen had obstructed the 'Bhoomi Pooja' and had tried to interfere with the peaceful possession of the 2nd defendant. On that the 2nd defendant had filed a suit for perpetual injunction in O.S.no.46 of 2013 against the vendors of the plaintiff herein. After entering appearance, the vendors of the plaintiff had remained *ex parte* in the said suit. Thereafter, they had filed an application for setting aside the *ex parte* decree that was passed in the suit. Now, that suit stands posted for framing of issues. The vendors of the plaintiff in collusion with him had created documents with a *mala fide* intention to make an illegal gain and harass the defendants. The plaintiff is a practicing advocate at Sangareddy and he is fully aware of the facts of the case in O.S.no.46 of 2013. The plaintiff has no prima facie case and the suit is liable for dismissal. From the date of the purchase, the 1st defendant is in peaceful possession and enjoyment of the property. The plaintiff had developed an evil eye and is trying to grab the property taking advantage of the fact that plot bears the same number and is described within the same boundaries. The 1st defendant is having property adjacent to the property of the 2nd defendant. The said plots were purchased by the defendants 1 and 2 with their hard earned money. In fact, the 1st defendant had filed a suit against M.Anand Rao and Md. Abid for perpetual injunction in O.S.no.10 of 2014. The trial Court had decided the interlocutory application and had observed that the 1st defendant had land, i.e., open plot bearing no.76 in sy.no.53 and 54 admeasuring 200 square yards at Muthangi village. Thus, the 1st defendant had purchased the property from Lachi Raju under registered sale deed dated 10.02.2006 and the said house plot is adjacent to the plot of M.Ananda Rao and Md. Abid.

6. Submissions are made in line with the respective contentions. The learned counsel for the defendants who are unsuccessful would contend that the Courts below did not properly appreciate the facts and the contentions of

the defendants and that the Courts below erred in granting an order of injunction ignoring the fact that the property was purchased under regular registered sale deed and the further facts that the defendants are in possession and that another suit filed is also pending. On the contrary the learned counsel for the plaintiff supported the orders of the Courts below and had submitted that the well considered concurrent findings of the Courts below do not warrant interference.

7. I have noted the submissions. I have given earnest consideration to the facts and the submissions.

8. From the facts borne out by the material record, it is evident that both the parties are making claim in respect of the same plot or a plot with the identical description. Exhibit P1 is the certified copy of the sale deed dated 20.01.2014 said to have been executed by Smt. Anasuya Reddy and Zahid Ali in favour of the plaintiff in respect of the plaint schedule plot. It is not in dispute that the record and the recitals in exhibit P1 disclose that one Gadiraju Lachi Raju and K.Sadasiva Rao had entered into agreement of sale with the vendees therein in respect of the open plots in Sy.Nos.55, 56, 82 and 85 situated at Ramaraju Nagar Colony, Muthangi village, as per the sanctioned layout no.12 dated 23.10.1991 and that when Gadiraju Lachi Raju and K.Sadasiva Rao had failed to perform their part of contract in spite of readiness and willingness of the vendees therein, they (the vendees therein) had filed the suit for specific performance of the said agreement of sale in O.S.no.69 of 2010 on the file of the learned V Additional District Judge, Medak at Sagareddy against them (vendors therein) and that the said suit was decreed on 14.11.2011 and thereafter, as the said Gadiraju Lachi Raju and K.Sadasiva Rao had neglected to execute and register the sale deed in pursuance of the decree in O.S.no.69 of 2010, the vendees/DHrs had filed E.P.no.23 of 2011 and that the Court had executed the sale deed on behalf of the said Lachi Raju and Sadasiva Rao in favour of the DHrs, who are the vendors of the plaintiff herein, vide sale deed bearing document no.16106 of 2012 and that the said sale deed-exhibit P2, executed by the

Court is dated 05.11.2012. The suit plot is covered by the said sale deed is also not in dispute, *prima facie*. Exhibit P3 is the receipt issued by the Gram Panchayat; and exhibit P4 is the proceedings issued by the Gram Panchayat; under the said proceeding construction permission was granted on 22.2.2014 by the Gram Panchayat to the plaintiff for construction of a house over the petition schedule plot. The plaintiff had further exhibited exhibits P8 and P9, the judgment and decree in O.S.no.69 of 2010, i.e., the judgment and the decree passed in the specific performance suit in favour of the vendors of the plaintiff against G.Lachi Raju and others. The material document disclose that the vendors of the plaintiff had purchased the suit schedule plot and other plots also under an agreement of sale from G.Lachi Raju and K.Sadasiva Rao even by the year 2011 by paying advance sale consideration and that agreement culminated in a sale deed executed by the Court after the due execution of the decree for specific performance. *Per contra*, the claim of the respondent no.2 is that he had purchased the suit schedule plot no.77 under registered sale deed dated 22.03.2007. The specific case of the defendants is that the vendor of the 2nd defendant had purchased the said plot from Lachi Raju on 10.02.2006 under a registered sale deed. The said sale deed was thus executed five years after the agreement of sale in favour of the vendors of the plaintiff. Though exhibits R1 to R20 were marked on the side of the defendants, exhibits R10 to R20 are not relevant to the subject plot. Exhibit R1 is the copy of the plaint in O.S.no.46 of 2013 filed by the 2nd defendant against the vendors of the plaintiff. The said suit is pending. Exhibit R4 is the certified copy of sale deed dated 10.02.2006 executed in favour of the vendor of the 2nd defendant. Exhibit R5 is the certified copy of sale deed dated 23.02.2007 in favour of the 2nd defendant in respect of the subject plot. Exhibit R6 is the copy of the written statement in the said suit O.S.no.46 of 2013. Having regard to the rival claims and the very fact that the plaintiff was able to produce permission accorded by the Gram Panchayat for construction of house in the plaint schedule plot, the Court below had accepted *prima facie* the claim of possession of the plaintiff over the suit schedule plot. After examining the documentary evidence referred to above in juxtaposition, the

Court below, having noted that the agreement of sale in favour of the vendors of the plaintiff is much earlier in point of time and that the suit for specific performance was decreed and that a sale deed was executed by the Court and that later, the plaintiff who had purchased the plaint schedule property from the said decree holders and had also obtained permission from the Gram Panchayat for construction of a house, had confirmed the order of the trial Court while recording a concurrent finding that the plaintiff is entitled to perpetual injunction against the defendants pending final disposal of the suit. Having regard to the facts and the reasons assigned, this Court finds that no grounds were made out by the defendants for interfering with well considered orders of the Courts below. Having carefully gone through the record and having given detailed and thoughtful consideration to the facts and the submissions, this Court finds that there is no merit in this revision and that the same is liable to be dismissed.

9. Accordingly, the Civil Revision Petition is dismissed.

There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this revision shall stand closed.

M.SEETHARAMA MURTI, J

01st June, 2016
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