

**THE HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

**CIVIL REVISION PETITION No.768 OF 2016**

**ORDER:**

This revision petition is filed against the order, dated 28.12.2015, in I.A.No.546 of 2015 in O.S.No.62 of 2015 on the file of Junior Civil Judge, Yemmiganur, wherein, the Court below has granted police aid for implementation of the injunction order, dated 13.10.2015, passed in I.A.No.187 of 2015 in the said Suit.

2. The brief facts are that respondent Nos.1 to 3 filed the aforesaid Suit for injunction against the petitioners in respect of the suit schedule property. In the said Suit, they also filed I.A.No.187 of 2015 and on contest, *ad interim* injunction was granted on 13.10.2015 in their favour and against the petitioners. Thereafter, for grant of police aid to implement the said injunction order, they filed the present I.A. on 01.12.2015. On 21.12.2015, after hearing both sides, the I.A. was reserved for orders. In the meanwhile, aggrieved by the order, dated 13.10.2015, petitioners filed C.M.A.No.63 of 2015 on the file of II Additional District Judge, Kurnool at Adoni, along with I.A.No.1187 of 2015 seeking stay of operation of the order, dated 13.10.2015. The appellate Court, by order, dated 21.12.2015, granted interim suspension. In spite of the same, the Court below granted police protection vide impugned order, dated 28.12.2015. Hence, the present revision petition is filed.

3. Learned counsel for the petitioners submits that though injunction order, dated 13.10.2015, is not in operation as on 28.12.2015, the trial Court has granted police protection by impugned order, dated 28.12.2015. He also submits that the affidavit filed in support of the present I.A. does not contain the particulars as to when the petitioners tried to interfere with the possession of respondent – plaintiffs. He also submits that the boundaries given in the injunction petition are not correct and to that effect counter affidavit is also filed.

4. On the other hand, learned counsel for the respondent - plaintiffs submits that as the petitioners failed to pursue the C.M.A. even after giving several opportunities, the C.M.A. was dismissed for default on 22.02.2016 and as on today, injunction order is in operation. He further submits that since the order, dated 21.12.2015, passed by the appellate Court in I.A.No.1187 of 2015 was not communicated to the trial Court, police protection was granted on 28.12.2015, as the I.A. for grant of police protection was reserved for orders on 21.12.2015.

5. It is not in dispute that the C.M.A. filed against the order of injunction, dated 13.10.2015, in I.A.No.187 of 2015 was dismissed on 22.02.2016 and it is not the case of the petitioners that the C.M.A. is restored to file. As

such, the injunction order passed by the trial Court on 13.10.2015 is in operation as on today. It is also not in dispute the I.A. filed for grant of police aid was reserved for orders on 21.12.2015 and the order of suspension granted by the appellate Court in I.A.No.1187 of 2015 was not brought to the notice of the trial Court before passing the impugned order, dated 28.12.2015, granting police protection. In view of the same, it cannot be said that in spite of suspension of the injunction order by the appellate Court, the trial Court has granted police protection. However, in the affidavit filed in support of the injunction petition, though it is stated that the respondent – plaintiffs issued notice to the petitioners not to interfere with their possession, in the affidavit filed in support of the application for grant of police aid, nowhere it is specifically mentioned when the petitioners tried to interfere with their possession. Further, in the impugned order, the trial Court has also observed that as the respondent – plaintiffs are apprehending that the petitioners are not obeying the orders of the Court, they are entitled to grant of police aid.

6. No doubt, the appeal filed against the order of interim injunction was dismissed, but while seeking police aid, the respondent – plaintiffs ought to have asserted on what dates the petitioners tried to interfere with their possession. There is no doubt that the trial Court or any

Court has power to grant police aid when injunction order is continuing, but the affidavit filed in support of the application for grant of police aid does not indicate when the petitioners tried to interfere with the possession of the respondent – plaintiffs. The learned counsel for petitioners submits that the petitioners are not interfering with the possession of respondent – plaintiffs since the grant of police aid and only on mere apprehension, the respondent – plaintiffs filed the present I.A. and the trial Court ought not to have passed the impugned order unless the respondent – plaintiffs specifically assert by giving particulars that the petitioners have interfered with their possession. In view of the same, I do not think that it is a fit case to grant police aid. Hence, the order under revision is liable to be set aside.

7. Accordingly, the revision petition is allowed and the impugned order, dated 28.12.2015, is set aside. However, if there is any interference by the petitioners in respect of the suit schedule property, it is open for the respondent – plaintiffs to make appropriate application by giving specific details and on such application, the trial Court shall consider the same and grant necessary police aid for implementation of the injunction order, so long as the injunction order is valid and subsisting.

8. Miscellaneous Petitions, if any, pending in this revision petition, shall stand closed. No costs.

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**REDDY, J**

March 22, 2016  
MD

**A. RAJASHEKER**