

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.160 of 2016

ORDER :

This Revision is filed challenging the order dt.01.10.2015 in I.A.No.1384 of 2015 in O.S.No.629 of 2014 on the file of Additional Senior Civil Judge, Eluru.

2. The petitioner herein is plaintiff in the above suit.
3. He filed the suit for permanent injunction restraining respondents from interfering with his peaceful possession and enjoyment of the suit schedule property of extent Ac.1.07 cents in R.S.No.966/1 situate at Kamavarapukota Village and Mandal, West Godavari District.
4. The petitioner filed I.A.No.2458 of 2014 for grant of temporary injunction, pending suit.
5. The trial court granted temporary injunction on 14.07.2015, after hearing both sides.
6. The respondents questioned the same in C.M.A.No.24 of 2015 before the II Additional District Judge, West Godavari, Eluru, but the said order granted by the trial court has not been suspended. The appeal is still pending on the file of the said court.
7. Thereafter, the petitioner filed I.A.No.1384 of 2015 under Section 151 C.P.C. seeking police aid for effective

implementation of the interim injunction order granted by the Court below in I.A.No.2548 of 2014.

8. By order dt.01.10.2015, the Court below dismissed the said application relying on a Division Bench judgment of this Court in **Polavarapu Nagamani and others v. Parchuri Koteswara Rao and others**^[1]. It held that police protection cannot be granted as sought by petitioner in a routine manner and that he is at liberty to take up proceedings for contempt or for execution under Order 21 Rule 32 C.P.C or Order 39 Rule 2A C.P.C., in the event of any breach or violation of Court orders or in the case of any disobedience or threat to such parties. It also held that the Court cannot come to the conclusion with regard to the disobedience or breach of its interim injunction orders basing on oral statements of the parties when the main suit is pending trial.

9. Challenging the same, the present Revision is filed.

10. Heard the counsel for petitioner, and Sri K. Ramesh Babu, learned counsel for respondents.

11. The counsel for petitioner contends that this Court in **Gampala Anthaiah and others v. Kasarla Venkat Reddy**^[2] and **E. Venkatarama Naidu and Ors. vs. E. Ramachandra Naidu and Ors.**^[3] has considered the Division Bench judgment in **Polavarapu**

Nagamani (1 supra). Insofar as the said judgment held that application for police protection is not maintainable when there is violation of injunction order and would only be maintainable if there is a threat of violation of injunction order, this Court held that the judgment in **Polavarapu Nagamani** (1 supra) is *per incurium*.

12. On the other hand, the counsel for respondents has not been able to place any other decision taking a contra view.

13. In view of the decisions in **Gampala Anthaiah** (2 supra) and **E. Venkatarama Naidu** (3 supra), I am of the opinion that the application for police aid can be granted even when there is violation of a temporary injunction granted by a Court. So I hold that the Court below erred in not granting the said relief to petitioner in I.A.No.1384 of 2015.

14. Therefore, the Civil Revision Petition is allowed, the order dt.01.10.2015 in I.A.No.1384 of 2015 in O.S.No.629 of 2014 on the file of Additional Senior Civil Judge, Eluru is set aside, and I.A.No.1384 of 2015 is allowed. However, this would be subject to the orders which may be passed in the C.M.A.No.24 of 2015 pending on the file of II Additional District Judge, West Godavari, Eluru. No order as to costs.

15. As a sequel, miscellaneous petitions pending if any in this Civil Revision Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 24-06-2016

Ndr/*

[\[1\]](#) 2010 (2) ALD 41 (DB)

[\[2\]](#) 2014 (2) ALD 281

[\[3\]](#) 2015 (5) ALT 238