

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION NO.3740 OF 2016

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order, dated 12.12.2014 in I.A.No.290 of 2014 in O.S.No.391 of 2014 on the file of the Sub Divisional Magistrate, Mobile Court, Bhadrachalam.

2. The contention of the learned counsel for the petitioners is two fold viz., (1) the respondents herein filed the suit by manipulating the pattadar pass books and title deed books and (2) the trial Court failed to consider that the suit schedule property is in Sy.No.400/33 and not in Sy.Nos.400/33/122, 400/33/123 and 400/33/124. He further submitted that the findings recorded by the trial Court are not based upon any material on record.

3. Per contra, learned counsel for the respondents submitted that the trial Court rightly considered the documents filed by the respondents and granted interim injunction. He further submitted that the material placed before the trial Court *prima facie* proves that the respondents have been in possession and enjoyment of the land in question.

4. A perusal of the record reveals that the respondents herein filed O.S.No.391 of 2014 on the file of the Sub Divisional Magistrate, Mobile Court, Bhadrachalam against the petitioners herein for perpetual injunction in respect of an extent of Ac.13.00 in Sy.Nos.400/33/122, 400/33/123 and 400/33/124 of Jaggaram village, Hamlet of Aswapuram Revenue village and Mandal, Khammam District. Along with the suit, the respondents filed I.A.No.290 of 2014 seeking ad-interim injunction. The petitioners herein filed

counter stating that the suit schedule property is situated in Sy.No.400/33 and not in Sy.Nos.400/33/122, 400/33/123 and 400/33/124 as contended by the respondents. It is the further case of the petitioners herein that the respondents herein have fabricated the revenue record and filed the suit.

5. Basing on the material available on record, the trial Court granted interim injunction in favour of the respondents. Hence, the present revision.

6. A perusal of the record clearly reveals that the petitioners herein filed main suit in respect of an extent of Ac.13.00 in Sy.Nos.400/33/122, 400/33/123 and 400/33/124 of Jaggaram village, Hamlet of Aswapuram Revenue village and Mandal, Khammam District. Even as per the averments made in the counter, the respondents herein are claiming an extent of Ac.22.00 in Sy.No.400/33.

7. It is the contention of the learned counsel for the petitioners that the petitioners filed O.S.No.171 of 1989 on the file of the Subordinate Judge, Kothagudem and obtained decree. A perusal of the record reveals that in the said suit, the survey number of the suit schedule property was shown as 400/33. It is not the case of the petitioners that they are having land in the suit schedule property.

8. A perusal of the record reveals that the Revenue authorities issued pattadar pass books and title deed books in favour of the respondents in respect of Sy.Nos.400/33/122, 400/33/123 and 400/33/124. Unless and until the competent authority set aside the pattadar pass books and title deed books, this Court cannot place *prima facie* reliance on them. The learned counsel for the petitioners submitted that the petitioners filed appeal before the Revenue authority for cancellation of the pattadar pass books and title deed books. It is needless to say that a person

who seeks an interim injunction has to establish that he was in possession and enjoyment of the property as on the date of filing of the suit. A perusal of the record *prima facie* reveals that the respondents have been in possession and enjoyment of an extent of Ac.13.00 in Sy.Nos.400/33/122, 400/33/123 and 400/33/124. The balance of convenience is also in favour of the respondents. If no injunction is granted, it may cause untold hardship to the respondents when compared to the petitioners. Whether the land in question is situated in Sy.Nos.400/33/122, 400/33/123 and 400/33/124 has to be decided after full-fledged trial by the trial Court. The trial Court has assigned cogent and valid reasons to its findings. The findings recorded by the trial Court are supported by material available on record. There are no grounds much less valid grounds to set aside the order passed by the trial Court.

9. Taking the facts and circumstances of the case, I am of the considered view that the order under revision does neither suffer from any fundamental infirmity nor any jurisdictional error, which warrants interference of this Court under Article 227 of the Constitution of India.

10. Accordingly, the Civil Revision Petition is dismissed. Any observations made by this Court, are only confined to this order. No order as to costs. Miscellaneous Petitions, if any, pending in this revision petition shall stand closed.

T.SUNIL CHOWDARY, J

DATED: 28-10-2016
Hsd