

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.242 OF 2016

ORDER :

Petitioners are the plaintiffs in suit O.S.No.62 of 2014 on the file of I Additional Junior civil Judge, Kovvur. They filed the said suit seeking exclusive rights of 'ABCD' plaint passage for their ingress and egress to reach the southern side panchayat road and for a consequential permanent injunction restraining the respondents from interfering with the petitioners' peaceful possession and enjoyment of the said passage and for costs. This suit was filed in June 2014.

2. Petitioners also filed I.A.No.137 of 2014 in the said suit under Order 39 Rule 1 and 2 CPC seeking ex-parte temporary injunction restraining the respondents from interfering with the petitioners' peaceful possession and enjoyment of the said passage in any manner, pending suit.

3. Counter affidavit was filed by the respondents opposing grant of said relief to the petitioners.

4. On 27.01.2015, the application I.A.No.137 of 2014 was rejected by the I Additional Junior Civil Judge, Kovvur opining that the petitioners failed to prove *prima facie* case and therefore they were not entitled to temporary injunction pending suit.

5. Petitioners questioned the same in CMA No.1 of 2015

before the IX Additional District Judge, West Godavari at Kovvur.

6. The said appeal was also dismissed on 18.09.2015 confirming the findings of the trial Court.

7. Challenging the same, this Civil Revision Petition is filed by the petitioners.

8. It is not in dispute that the evidence of the petitioners is completed in the suit and that the matter is now coming up for cross-examination of DW1.

9. Since the suit is at an advanced stage, without expressing any opinion on the merits of the orders passed by the Courts below in I.A.No.137 of 2014 and CMA.No.1 of 2015, I deem it appropriate to direct the trial Court to decide O.S.No.62 of 2014, uninfluenced by any observations made in the orders passed by it in I.A.No.137 of 2014 or by the lower appellate Court in CMA No.1 of 2015, within six (06) months from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claims of either party.

10. The Civil Revision Petition is disposed of with the above directions. There shall be no order as to costs.

11. Consequently, miscellaneous petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

10th June, 2016
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