

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

CIVIL REVISION PETITION No. 4435 of 2016

Date: 17.09.2016

Between:

Boddapalli Venkata Swamy,
Visakhapatnam, and another

.. Petitioners

and

Vangalapudi Sanyasi,
Visakhapatnam, and others

.. Respondents

Counsel for the Petitioners: Ms. B. Geetanjali Devi
For Dr.P.B. Vijaya Kumar

Counsel for respondents: --



ORDER:

This Civil Revision Petition arises out of order dated 18.07.2016 in I.A.No.112 of 2016 in O.S.No.362 of 2004 on the file of the Principal Junior Civil Judge, Anakapalle.

The petitioners herein filed the aforementioned suit for permanent injunction restraining the respondents from interfering with their possession of the suit schedule property. During the trial, the petitioners adduced evidence of P.Ws.1 to 3 and got marked Exs.A.1 to A.5. On behalf of the respondents, D.Ws.1 to 4 were examined and Exs.B.1 and B.2 were marked. Ex.B.2 is a purported 'D' Form patta allegedly granted in favour of the respondents. The petitioners filed the aforementioned I.A to reopen the trial for issue of summons to the Tahsildar, Sabbavaram, for giving evidence regarding the genuineness or otherwise of the 'D' Form patta. This application was dismissed by the lower Court on the reasoning that since the petitioners have filed the suit for injunction, the burden lies on them to prove their case and that they need not rely upon the alleged weakness in the case of the respondents. The lower Court further held that when the petitioners have denied the genuineness of Ex.B.2, the burden is on the respondents to prove Ex.B.2 and that therefore, it is not necessary for the petitioners to summon the Tahsildar in order to prove that Ex.B.2 is not genuine.

As rightly observed by the lower Court the burden is on the respondents to prove the genuineness of Ex.B.2 and there is no need for the petitioners to prove in the negative that Ex.B.2 is not a genuine document. Therefore, I do not find any reason to interfere with the order of the lower Court.

The Civil Revision Petition is accordingly dismissed.

As a sequel, C.R.P.M.P.No.5768 of 2016, filed by the petitioners for interim relief stands disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

Date: 17.09.2016
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