

**HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

**CIVIL REVISION PETITION No.3942 of 2014**

**ORDER :**

This civil revision petition under Article 227 of the Constitution of India is filed by the unsuccessful respondents/defendants, assailing the orders dated 23<sup>rd</sup> April, 2014 of the learned II Additional District Judge, Kurnool at Adoni, passed in C.M.A.No.4 of 2008, wherein and whereby, the learned II Additional District Judge, while dismissing the said CMA, confirmed the order and decretal order dated 17.03.2008 of the learned Junior Civil Judge, Pattikonda, passed in I.A.No.420 of 2007 in O.S.No.212 of 2007 filed by the petitioners/plaintiffs under Order XXXIX Rules 1 and 2 read with Section 151 of Code of Civil Procedure, 1908, requesting to grant temporary injunction restraining the respondents/defendants from interfering with the petitioners'/plaintiffs' peaceful possession and enjoyment of land of an extent of Ac.0.88 cents out of full extent of Ac.1.32 cents in Sy.No.161/1 of Pattikonda, more fully described in the schedule annexed to the plaint and petition.

I have heard the submissions of Sri J.U.M.V.Prasad, learned counsel appearing for petitioners/defendant (hereinafter, 'defendants'), and of Sri K.Sita Ram, learned counsel appearing for respondents/plaintiffs (hereinafter, 'plaintiffs'). I have perused the material record.

The facts which are necessary to be stated as a prelude to this order, in brief, are as follows: "In a suit for perpetual injunction filed by the plaintiffs, the plaintiffs also filed the above said interlocutory application for temporary

injunction. Defendants filed a counter resisting the said application. At the hearing, no oral evidence was adduced by the parties; however, Exs.P-1 to P-5 and R-1 to R-13 were marked. On merits, the trial Court allowed the application and granted temporary injunction as prayed for pending final disposal of the suit. As already noted, the Civil Miscellaneous Appeal filed by the petitioners was dismissed confirming the order of the Trial Court. Therefore, the defendants are before this Court.”

The learned counsel for the defendants would submit as follows: “The suit of the plaintiffs is based only on Ex.P-1, an unregistered agreement of sale dated 11.08.1947 besides Ex.P-2, Pattadar passbook; Ex.P-3, Title deed book; and Exs.P-4 and P-5, cist receipts. The Courts below erroneously gave credance to the unregistered agreement and the pattadar passbook and title deed book, which were issued basing on the said unregistered agreement of sale. The Courts below failed to take note of the important fact that the said Pattadar passbook and Title deed book were later revoked by the revenue authorities. Therefore, the Courts below erred in granting temporary injunction without the plaintiffs establishing their possession, much less lawful possession and a *prima facie* case.”

*Per contra*, the learned counsel for respondents would submit as follows: “Ex.P-1 is of the year 1947. It is in the nature of an unregistered deed of sale. In any view of the matter, on account of the long lapse of time, the plaintiffs, who exercised ordinary rights of ownership, had perfected title by being in continuous and uninterrupted possession over the property for over several decades. In recognition of such long and settled possession and title acquired by long and continuous possession, the pattadar passbook,

Ex.P-2, and title deed, Ex.P-3, were issued in favour of the plaintiffs. The said documents and the cist receipts under which the cist was paid sufficiently prove the actual physical possession of plaintiffs not only since 1947 but during the relevant period. Therefore, the Courts below, having placed reliance on the said documents, granted temporary injunction. The said temporary injunction orders are in force since March 2008 till today. Except denying the case of the plaintiffs, the defendants have not taken any positive stand. Hence, there is no merit in the revision and the revision is liable to be dismissed.”

I have bestowed my attention to the facts and submissions.

As already noted, the original plaintiff (since died) filed the suit *inter alia* contending that under Ex.P-1, dated 11.08.1947, he purchased the suit schedule property for a consideration of Rs.60/- and that under the said document, possession was delivered to him and that he was and is in possession of the suit schedule property for over several decades. According to the submissions, he exercised ordinary rights of ownership over the said land as an owner thereof and that he was given pattadar passbook and title deed book, under Exs.P2 and P3, and also paid cist for the said land under the cist receipts, Exs.P-4 and P-5. The only defence of the defendants is that the pattadar pass book and title deed book were obtained by the said plaintiff on the basis of an unregistered agreement of sale contrary to the provisions of the Record of Ryots Act and that the said pattadar pass book and title deed book were later revoked by the revenue authorities. As rightly contended on behalf of the plaintiffs, except denying the case of the plaintiffs, the defendants have not taken any positive stand. The Courts below, having

examined the pleadings in juxtaposition with the documents of the parties, which are exhibited, concurrently recorded a finding that the plaintiffs established a *prima facie* case of possession over the suit land and that the balance of convenience is in favour of the plaintiffs and that if no injunction is granted, they will be put to irreparable injury, and hence granted temporary injunction orders in favour of the plaintiffs. Exhibit P1 shows the long and continuous possession of the plaintiffs over the plaint schedule land for over several decades. The plaintiffs paid cist in respect of the subject land is not in dispute. It appears that neither the vendor who executed the agreement nor are the said person's representatives disputing the possession and rights of the plaintiffs. It is settled law that the person in possession of land in assumed character of owner and exercising peaceably the ordinary rights of ownership has a perfectly good title against the whole world except the rightful owner. The Injunction orders are in force since 2008 and the plaintiffs are enjoying the fruits of the said orders since that year. This Court on examination of the material on record is of the considered view that no case is made out by the defendants warranting interference with the well considered concurrent findings of the Courts below, particularly, at this distance of time.

Viewed thus, this Court finds that there is no merit in the revision petition and that it is liable to be dismissed.

In the result, the revision petition is dismissed. It is needless to mention that the trial Court shall dispose of the suit on merits, after full-fledged trial, uninfluenced by the observations, if any, made by the Courts in these interlocutory proceedings. Since the suit is of the year 2007, the trial

Court shall endeavour to dispose of the suit as expeditiously as possible, preferably within three months from the date of receipt of a copy of this order. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

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**M. SEETHARAMA MURTI, J**

5<sup>th</sup> December, 2016

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