

THE HON'BLE SRI JUSTICE S.V.BHATT
CIVIL REVISION PETITION No.3997 of 2016

ORDER:

The revision is directed against the order in I.A.No.257 of 2016 dated 13.07.2016 filed by petitioners seeking police aid in terms of order of temporary injunction granted in I.A.No.187 of 2015 dated 13.10.2015. According to petitioners, the temporary injunction granted by the trial Court is subsisting as on date and police protection should have been granted.

2. The petitioners filed I.A.No.546 of 2015 seeking police aid in terms of order dated 13.10.2015. On 28.12.2015, I.A.No.546 of 2015 was allowed and the same was carried in revision to this Court. On 22.03.2016, the revision filed by respondents herein was allowed and the operative portion reads thus:

“Accordingly, the revision petition is allowed and the impugned order, dated 28.12.2015, is **set aside**. However, if there is any interference by the petitioners in respect of the suit schedule property, it is open for the **respondent** – plaintiffs to make appropriate application by giving specific details and on such application, the trial Court shall consider the same and grant necessary police aid for implementation of the impugned order, so long as the injunction order is valid and subsisting.

(emphasis added)

3. The petitioners, on 20.06.2016, filed I.A.No.257 of 2016 for police aid. The application was opposed by the respondents herein. The trial Court, through order impugned in the revision, dismissed the application. Hence, the revision.

4. One of the grounds weighed with the trial Court to refuse the prayer for police aid is that the petitioners can also take remedy under Order 39 Rule 2A of the Civil Procedure Code. I have perused the order impugned in the revision. This Court is of the view that the trial Court was directed by this Court, through order dated 22.03.2016, as follows:

“...the trial Court shall consider the same and grant necessary police aid for implementation of the impugned order, so long as the injunction order is valid and subsisting.”

Apparently, the direction issued by this Court is not properly appreciated by the trial Court. Further, the petitioners were given liberty to file fresh application with supporting evidence and seek police aid. Once the said liberty is fully utilized and fresh application is filed with evidence, the trial Court ought to have posted the IA for enquiry, examine the material placed by petitioners and consider the pleas offered by respondents herein and pass appropriate orders as are deemed fit and proper in the circumstances of the case.

5. The order impugned in the revision petition is completely erroneous and unsustainable. Accordingly, set aside. I.A.No.257 of 2016 is remitted to trial Court for consideration afresh and disposal in accordance with law within four (4) weeks from the date of receipt of a copy of this order

The civil revision petition is allowed and remanded. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

S. V. BHATT, J

October 13, 2016/DSK