

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.2502 OF 2016

ORDER

By order dated 18.04.2016 passed in CMA No.129 of 2015, the learned XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri, reversed the order and decree dated 13.08.2015 in I.A.No.1441 of 2014 in O.S.No.250 of 2014 passed by the learned Additional Junior Civil Judge, Malkajgiri, Ranga Reddy District, whereby a temporary injunction was granted restraining the defendant from interfering with the plaintiff's possession over the suit schedule property. Aggrieved by this reversal, the plaintiff in O.S.No.250 of 2014 is before this Court.

The suit, O.S.No.250 of 2014, was filed for a perpetual injunction restraining the respondent-defendant from interfering with the petitioner-plaintiff's possession and enjoyment over the suit schedule property. The suit schedule property is an agricultural land admeasuring Ac.0.09 guntas situated in Sy.No.170/A of Cheeryal Village, Keesara Mandal, Ranga Reddy District. The petitioner-plaintiff claimed that he was the owner of the suit property, having purchased the same under registered sale deed bearing No.1423 of 2009 dated 09.03.2009. His vendor was stated to have acquired this land and other properties through a registered family partition deed bearing No.3256 of 2006 dated 18.02.2006. As per this partition, the petitioner-plaintiff's vendor and others got an extent of Ac.1.06 guntas in Sy.No.170/A of Cheeryal Village. Out of this, he sold the subject extent of Ac.0.09 guntas to the petitioner-plaintiff. While so, the respondent-defendant, who is the cousin brother of the petitioner-plaintiff's vendor, interfered with the possession of the petitioner-plaintiff over the subject land which led to the filing of the suit.

By way of I.A.No.1441 of 2014 filed in the suit, the petitioner-

plaintiff sought a temporary injunction against the respondent-defendant. The trial Court took note of the documentary evidence filed by the petitioner-plaintiff in proof of his title and possession over the suit property and disbelieved the contention of the respondent-defendant that the vendor of the petitioner-plaintiff was not the exclusive owner of the suit property. The trial Court also found no evidence that the petitioner-plaintiff was trying to occupy the property of the respondent-defendant under the guise of the sale deed executed in his favour. Holding that the petitioner-plaintiff had made out a *prima facie* case and established that the balance of convenience was in his favour as he would suffer irreparable injury, the trial Court granted him the temporary injunction as prayed for.

In appeal, the learned XVI Additional District and Sessions Judge, Ranga Reddy at Malkajgiri, took note of the fact that under the registered partition deed dated 18.02.2006, the land admeasuring Ac.1.06 guntas in Sy.No.170/A of Cheeryal Village fell to the share of not only the vendor of the petitioner-plaintiff, N.Sanjeeva Reddy, but also four others, viz., N.Ram Reddy, N.Sumathi, N.Saichand Reddy and N.Kanthamma. As no explanation was forthcoming on how the vendor of the petitioner-plaintiff and the other co-sharers had divided this extent of Ac.1.06 guntas of land amongst themselves, the appellate Court felt that it was not safe to come to a definite conclusion that the suit property came to the share of the petitioner-plaintiff's vendor. The appellate Court therefore opined that the petitioner-plaintiff did not acquire absolute right over the suit property and that it could not be said that he was in possession thereof. It was on this basis that the appellate Court reversed the temporary injunction granted by the trial Court.

Significantly, there was no evidence of any of the co-sharers of the petitioner-plaintiff's vendor raising a dispute against execution of the sale deed in favour of the petitioner-plaintiff by N.Sanjeeva Reddy to the extent of Ac.0.09 guntas out of Ac.1.06 guntas which fell to their share under the registered partition deed dated 18.02.2006. In the absence of

any such dispute having been raised, the appellate Court had no real basis to suspect the *bonafides* of the sale transaction in favour of the petitioner-plaintiff by his vendor, N.Sanjeeva Reddy. Further, the partition was in the year 2006 while the sale in favour of the petitioner-plaintiff was in the year 2009, more than three years thereafter. The appellate Court also lost sight of the fact that the petitioner-plaintiff had produced copious documentary evidence in proof of the steps taken by him after his purchase of the suit property under the registered sale deed dated 09.03.2009. The certified copy of the pahani for 1424F, i.e., 2014 AD, was marked as Ex.P3 in the IA and clearly evidenced the name of the petitioner-plaintiff in the columns relating to the pattadar and the possessor. The 1-B register under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 (*hereinafter*, 'the Act of 1971') was marked as Ex.P4 and evidenced that the name of the petitioner-plaintiff was recorded therein. He was also granted the pattadar pass book and title deed in relation to this land under the provisions of the Act of 1971. Surprisingly, the appellate Court did not even consider these documents which *prima facie* evidenced the title and possession of the petitioner-plaintiff.

It may be noticed that a Division Bench of this Court, in ***UNION OF INDIA V/s. VASAVI COOPERATIVE HOUSING SOCIETY***^[1], held that entries made in the record of rights carry great evidentiary value if such record of rights is prepared and maintained under the provisions of the relevant statutes or regulations, as the case may be, as sometimes such entries constitute the only evidence to establish title. The Bench further held that entries made in pahani patrikas shall be deemed to be the record of rights prepared and maintained by a public servant in discharge of his official duties.

As to what extent the entries in the revenue records in the present case can be held to be conclusive proof of title and possession would perhaps have to be examined by the trial Court at a later stage in the suit proceedings. However, a strong presumption arises in favour of the

petitioner-plaintiff based on the undisturbed entries in the revenue records, which clearly evidence his possession over the suit property. It may also be noticed that the pattadar pass book and title deed were issued in favour of the petitioner-plaintiff in relation to the suit property as long back as in the year 2009, when he purchased the property. There is no indication of the respondent-defendant having taken any steps for cancellation of these entries made in the revenue records in favour of the petitioner-plaintiff.

The only issue raised by respondent-defendant which seems to have found favour with the appellate Court was that the petitioner-plaintiff's vendor and his co-sharers got a total extent of Ac.1.06 guntas in Sy.No.170/A of Cheeryal Village under the registered partition deed dated 18.02.2006 and there was no indication as to how they had separately divided the land amongst themselves.

As rightly pointed out by Sri Police Venkat Reddy, learned counsel for the petitioner-plaintiff, this aspect did not assume significance at all as none of the co-sharers seem to have raised a dispute in this regard. Significantly, the appellate Court failed to note that even according to the respondent-defendant, the registered partition deed of 2006 was genuine as he claimed that a separate extent of Ac.4.17 guntas in Sy.No.170/A was allotted to the share of his family members, including himself. He also admitted that the extent of Ac.1.06 guntas in the very same survey number fell to the share of the petitioner-plaintiff's vendor and his co-sharers. These admissions on the part of the respondent-defendant, read with the consequent revenue entries after the purchase of the suit property by the petitioner-plaintiff, were not examined by the appellate Court with the proper perspective.

Sri Gaddam Srinivas, learned counsel for the respondent-defendant, would contend that the petitioner-plaintiff failed to adduce sufficient evidence in proof of his possession. However, the learned counsel has no answer to the presumptions which would attach to the revenue entries which remain unchallenged till date. Even in the written

statement, the respondent-defendant did not state that he had initiated any measures in this regard notwithstanding the revenue records dating back to the year 2009.

This Court is therefore of the considered opinion that the appellate Court erred in reversing the cogent and well reasoned order passed by the trial Court. The sole basis on which the appellate Court reversed the said injunction does not merit consideration. Once the petitioner-plaintiff *prima facie* proved his possession over the suit property and established the balance of convenience in his favour by demonstrating the injury that would be caused to his interest, he was entitled to the protection of a temporary injunction and the appellate Court ought not to have denied him the said relief on wholly illusory grounds.

The civil revision petition is accordingly allowed setting aside the order dated 18.04.2016 passed by the learned XVI Additional District and Sessions Judge, Ranga Reddy District at Malkajgiri, in CMA No.129 of 2015 and restoring the order dated 13.08.2015 passed by the learned Additional Junior Civil Judge, Malkajgiri, Ranga Reddy District, in I.A.No.1441 of 2014 in O.S.No.250 of 2014. Pending miscellaneous petitions shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

15th JULY, 2016

PGS

[\[1\]](#) 2002 (5) ALT 370 (DB)