

**HON'BLE SRI JUSTICE R. KANTHA RAO**

**Civil Revision Petition No.4823 of 2015**

**ORDER:**

Heard Sri S.Subba Reddy, learned counsel appearing for the petitioners and Sri V.Surender Reddy, learned counsel appearing for the respondent.

2. The respondent/plaintiff filed suit for simple injunction and made an application therein seeking temporary injunction pending disposal of the suit. The petitioners are the brothers and sister of the respondent. The version of the respondent is that the joint family properties were partitioned among the brothers of his father and that the plaint schedule property fell to the share of his father and his father executed a registered Will dated 22.10.1983 in his favour bequeathing the plaint schedule property. It is contended by the petitioners that the Will is not genuine one and there are several suspicious circumstances surrounding the Will. The suspicious circumstances pointed are that in the Will, the father of the respondent did not state as to why he excluded the petitioners in the Will without bequeathing any properties to them and that in the reply notice issued by the respondent to a notice issued by the petitioners, there is no mention about the Will.

3. Initially, the trial court disposed of the interlocutory application directing the parties to maintain *status-quo*. Feeling aggrieved, the respondent herein preferred CMA 16 of 2012, which came to be disposed of by the learned III Additional District Judge, Kakinada. In the CMA, the learned Additional District Judge, taking into consideration the facts, namely, the registered Will, pattadar pass book and the certificate issued by the Village Revenue Officer, which indicate that the respondent is in possession of the property and therefore, took the view that the balance of convenience is in favour of the respondent and against the petitioners herein and if the injunction is not granted, the respondent would suffer irreparable loss and consequently set aside the order passed by the trial

court and granted temporary injunction in favour of the respondent and against the petitioners pending disposal of the suit. Challenging the said order, the present civil revision petition is filed.

4. Learned counsel appearing for the petitioners submit that since there are suspicious circumstances surrounding the Will, the appellate court ought not to have placed reliance on it and thereby erred in granting temporary injunction. I am not in acceptance with the argument submitted by the learned counsel appearing for the petitioners. At the stage of interlocutory application, the appellate court by taking into consideration the fact that there is a registered Will in favour of the respondent, granted temporary injunction. The learned Additional District Judge did not commit any error in relying on the registered Will, pattadar pass book and other documents filed by the respondent. Therefore, I am not inclined to interfere with the order passed by the learned Additional District Judge. However, the observations made by this court in this revision are confined only to this revision petition and they are not binding on the trial court at the time of the disposal of the suit. The trial court, therefore, can proceed with the evidence available on record independently and arrive at its own conclusions. Having regard to the contentions urged by both the parties, this court is of the view that the suit requires expeditious disposal.

5. Consequently, the civil revision petition is dismissed, directing the trial court to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, pending if any in this revision, shall stand closed.

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***R. KANTHA RAO, J***

Date: 05.02.2016  
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