

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

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Civil Revision Petition No.2386 of 2016

ORDER:

This civil revision petition arises out of an order passed by the lower Appellate Court refusing to grant an interim injunction pending disposal of the civil miscellaneous appeal arising out of the refusal of the trial court to grant an interim injunction in a pending suit.

2. Heard Sri R.Raghunandan, learned senior counsel for the petitioner.

3. The main suit in OS No.1182 of 2015 instituted by the petitioner herein itself was only for a decree of permanent injunction. The cause of action for the suit itself was the award of a contract and its subsequent conciliation by the Government of Andhra Pradesh and Vijayawada Municipal Corporation. The petitioner did not choose to seek a prayer for declaration or any other relief.

4. Along with the suit, the petitioner filed an interlocutory application in IA No.1281 of 2015 for an interim injunction. The trial court rejected the prayer for injunction, forcing the petitioner to file civil miscellaneous appeal in CMA No.2 of 2016 on the file of the V Additional District Judge, Vijayawada. Pending appeal, the petitioner sought an interim injunction in IA No.21 of 2016. But the same was also dismissed by the lower Appellate Court, forcing the plaintiff to come up with the above civil revision petition.

5. Needless to say that when two courts have refused to grant interim order of injunction, the scope of jurisdiction under Article 227 of the Constitution of India, is limited. The main grievance of the revision petitioner, as projected by the learned senior counsel, is that even the work already completed by the petitioner pursuant to the award of the

contract, was not measured fully, though an Advocate Commissioner was appointed by the court below. Another worry for the petitioner is that the non-issue of a statutory notice has also been held against the petitioner. Therefore, the petitioner apprehends that the suit itself may meet with the same fate on the second ground.

6. Insofar as the second ground is concerned, I do not think that a *prima-facie* finding recorded by the trial court in an application of injunction would be binding at the time of final hearing. The finding recorded in an order passed on interlocutory application is only *prima-facie* in nature. Therefore, it is always open to the petitioner to contest the issue at the time of final disposal.

7. Insofar as the first ground is concerned, the remedy of the petitioner does not lay in challenging the interim order refusing to grant an injunction. It lays elsewhere. Hence, the civil revision is dismissed.

There shall be no order as to costs. Pending miscellaneous applications if any, in this appeal shall stand closed.

V.RAMASUBRAMANIAN, J

Date: 10.06.2016
Note: Furnish cc by 13.06.2016
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