

HON' BLE Dr. JUSTICE B. SIVA SANKARA RAO

C.R.P.No.5508 of 2015

ORDER :

The revision petitioners are the decree holders in O.S No.720 of 2005 on the file of the V Additional Senior Civil Judge, Ranga Reddy District. The main suit is filed against the seven defendants, including the L.Rs representing defendants 4 and 6. The trial Court on 25.01.2010 while allowing the suit claim in part only in so far as the plaint A-schedule property concerned, restraining the defendants and their men not to interfere with the peaceful possession and enjoyment of the plaintiffs over it and dismissed in so far as the plaint-B schedule property concerned. Against the decree, the plaintiff filed an appeal in A.S. No.171 of 2010 in so far as dismissal claim in relation to B-schedule concerned vis-à-vis the defendants filed an appeal in A.S. No.188 of 2010 in so far as allowing the claim in relation to A-schedule property. Both the appeals are pending on the file of III Additional District Judge, Ranga Reddy District and be the things as it is, for the alleged interference by the defendants with the plaintiff's decree A-schedule property concerned the plaintiff moved, as respondents in the defendants appeal in relation to the A-schedule property,

I.A. No.168 of 2015 to grant police aid. The lower appellate Court, by the impugned order, pending the appeal, dismissed the same on 14.10.2015 with observation that though the petitioners/ decree holders for plaint A-schedule, apart from a criminal case filed, registered and police filed final report, there is an allegation of removal of fencing, there is no evidence to that affect including from any affidavit of the neighbours, thereby granting police aid is not held warranted.

2) In the revision, impugning the same, the respondents even served with notice, failed to attend, hence taken as heard. Heard the learned counsel for the revision petitioners/ decree holder of plaint-A schedule in the suit supra with contentions that lower appellate Court ought to have been granted the police aid. In support of the contention, the revision petitioners placed reliance on the expression of a single Judge of this Court in C.R.P. No.2919 of 2014 in *Bijiga Papa Rao V. Jonnalagadda Srinivasa Rao*. In fact, it referred several expressions including of the apex Court and Madras High Court and observed that as per the expression of the Apex Court in *K.K.Velusamy V. N.Palanisamy*¹ saying inherent power under Section 151 C.P.C can be exercised and there is no limit for it, but for

¹ (2011)11 SCC 275

the limitation on use is with to subserve the ends of Justice or to prevent abuse of process. It was observed that said decision has no help against seeking police aid and thereby not chosen to interfere in the revision against the impugned order granting police aid.

3) In fact, above expression referred a single Judge's expression in *Yarlagunta Bhaskara Rao V. Bommaji Danam*² and of a division bench expression in *Satyanarayana Tiwari V. S.H.O, P.S.Santoshnagar*³ where it was observed that once there is an executable order or enforceable order, in the course of execution or enforcement, the police aid can be taken.

4) When such is the case and from the expressions supra, there is nothing even to interfere with the impugned order in not granting police aid, but for to say said order no way bars to execute the trial Court's decree for sending defendants to civil prison and to seek police aid also therein to prevent interference.

5) Having regard to the above, the revision petition is disposed of, while not interfering with the impugned order of the lower Court not granting police aid, making it very clear that from the affective remedy available to the decree

² 2014(2) ALT 319

³ AIR 1982 AP 394

holder/ plaintiff in so far as A-schedule property concerned, for any violation or disobedience of the permanent prohibitory injunction decree to file execution petition under Order XXI Rule 32 C.P.C and therein definitely can ask the police aid besides seeking to send the respondents/ judgment debtors who disobeyed the decree of the Court to send to civil prison. There shall be no order as costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

27.09.2016
ksh

Dr. B. SIVA SANKARA RAO, J

