

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

C.R.P.Nos.5366, 5378 and 5385 of 2015

COMMON ORDER:

Heard counsel for the Revision Petitioners and Sri B.Ranganadha Rao, counsel for respondents.

2. Since these three Revisions arise out of a common order passed in CMA.Nos.52, 53 and 54 of 2014 on the file of II Additional District Judge, Warangal, they are being disposed of by this common order.

3. Petitioners in these three Revisions are the plaintiffs in the suits O.S.No.394 of 2014, O.S.No.395 of 2014 and O.S.No.396 of 2014 filed for perpetual injunction restraining the respondents from interfering with their peaceful possession and enjoyment of the plaint schedule property which are three open plots admeasuring 800 sq. feets each situated in survey No.1242(new survey No.753) of Fort Warangal Village and District. They filed I.A.No.736 of 2014, I.A.No.740 of 2014 and I.A.No.738 of 2014 respectively, in the three suits for temporary injunction in respect of their respective plots against the respondents.

4. It is their pleading that one Mandala Mallaiah was the owner of the land in survey No.753 (Old survey No.1242), that he died on 13.06.2000 and his wife and other legal representatives executed three separate registered sale deeds dt.16.06.2014 in favour of the petitioners. They allege that they have been inducted into possession by their vendors and that on 20.06.2014 when they sought to dig trenches in the land, respondents threatened to dispossess them. Petitioners filed Exs.P1 to P6 in support of their claim.

5. 1st respondent filed counter affidavit which was adopted by other respondents. They contend that the land in survey No.1242 (New

Sy.No.753) of an extent of Ac.1.36 guntas at Fort Warangal belongs to one Muddam Mallamma and that her name was recorded as pattadar and possessor; that her husband Papaiah died about 65 years back and she also died about 20 years back; that Muddam Mallamma and Papaiah had two daughters by name Ankala Veera Mallamma and Pakala Venkatalaxmi; that husband of Venkata Laxmi by name Veera Mankaiah, during the lifetime of Muddam Mallamma, purchased the land in survey No.1242 under simple sale deed dt.09.03.1954 for consideration and that possession was also delivered to him; that the name of Muddam Mallamma continued in the revenue records as pattadar and possessor. They further allege that the respondents are the legal heirs of Veera Mankaiah and they are in possession of the entire land in survey No.1242 and that Mandala Mallaiah, vendor of the petitioners, had no right or possession over the same. They also allege that the petitioners illegally got mutated their names in the revenue records without any documents, in collusion with the revenue officials. They claim that they approached the Tahsildar, Warangal and the Tahsildar under Ex.R1 dt.10.06.2014 deleted the names of Mandala Mallaiah from the revenue records and ordered to continue the names of respondents in the revenue records.

6. It is not disputed by both the sides that subsequent to filing of the suit, the Revenue Divisional Officer, Warangal vide proceedings No.A/1677/2014, dt.15.12.2014 set aside the order dt.10.06.2014(Ex.R1) of the Tahsildar, Warangal holding that the said order was not in accordance with the procedure laid down in A.P. Rights in Land and Pattadar Passbook Act, 1971.

7. It is stated by counsel for respondents that a Revision is pending before the Joint Collector, Warangal against the said order of RDO and that the stay granted by the revisional authority is operating as of date.

8. By common order dt.20.08.2014, the trial Court dismissed the applications for injunction placing reliance on Ex.R1 holding that Ex.R1 indicates the possession of the respondents.

9. Challenging the same, petitioners filed CMA Nos.52, 53 and 54 of 2014 before the lower appellate Court, which also relied upon Ex.R1 proceedings and consequential action taken after the said order was passed by recording the names of the respondents in Exs.R2 to R8 pahanies for Fasli 1424, and dismissed the CMAs.

10. Challenging the same, these Revisions are filed.

11. The Adangal for the year 2012-13 (EX.P4) filed by the petitioners shows the possession of the petitioners' vendor by name Mandala Mallaiah for an extent of Ac.1.36 guntas in survey No.1242. There is no dispute that the name of Mandala Mallaiah was reflected in the pahanies from 1985-86 to 2012-13 i.e., for a period of 20 years. It is not the case of the respondents that they have dispossessed the petitioners in accordance with law and secured possession of the lands purchased by the petitioners.

12. Under Section 114 of the Evidence Act, 1872 the Court may presume existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. Illustration (d) to the said section states that the Court may presume that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or state of things usually cease to exist, is still in existence. In **Ambica Prasad Singh And Anr. vs Ram Charitar**

Singh And Anr.^[1], the Supreme Court has held that the presumption under this provision can be drawn both forwards and backwards.

13. It is not in dispute that only for the year 2014 pursuant to an order of Tahsildar(Ex.R1) the names of respondents came to be included in revenue records. This single circumstance cannot be taken into account to disbelieve the story of the petitioners about the possession of their vendor of the subject land from 1986 till 2013. By virtue of presumption contained in Section 114 of the Evidence Act, 1872 their possession is deemed to have continued even for the year 2014, notwithstanding the order of the revenue authorities.

14. There is no dispute that it is the order of the Civil Court which binds the revenue authorities and not vice-versa. This is also reflected in Section 8 of the A.P. Rights in land and Pattadar Passbook Act, 1971.

15. Unfortunately both Courts below have overlooked the presumption contained in Section 114 of the Evidence Act, 1872 and blindly relied upon Ex.R1 order while dismissing the application filed by the petitioners for temporary injunction pending suit. Therefore, their orders cannot be sustained.

16. Accordingly, these three Civil Revision Petitions are allowed; the common order dt.08.10.2015 is set aside and the I.A.No.736 of 2014 in O.S.No.394 of 2014; I.A.No. 738 of 2014 in O.S.No.395 of 2014; and I.A.No.740 of 2014 in O.S.No.396 of 2014 shall stand allowed. It is made clear that these observations are made only for disposal of the said I.As. and the Court below is directed to dispose of the said suits, uninfluenced by the above observations, as expeditiously as possible, preferably within a period of six (06) months from the date of receipt of

a copy of this order. There shall be no order as to costs.

17. Consequently, Miscellaneous Petitions pending if any, shall stand closed.

M.S. RAMACHANDRA RAO, J

25th January, 2016.
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[\[1\]](#) AIR 1966 SC 605