

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SRI JUSTICE A.SHANKAR NARAYANA

Writ Appeal No.1358 of 2016

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in W.P.No.37128 of 2015 dated 07.12.2015. Respondents 1 to 3 herein filed W.P.No.37128 of 2015 seeking a writ of mandamus to direct police officials to give them police protection for maintaining their lawful possession over the suit schedule lands in Survey Nos.10 and 11 to an extent of Ac.12.20 guntas comprised in the three schedules in I.A.No.1892 of 2008 in O.S.No.2048 of 2008 on the file of the II Additional Senior Civil Judge, Ranga Reddy District.

By his order in I.A.No.1892 of 2008 in O.S.No.2048 of 2008 dated 14.12.2009 the learned II Additional Senior Civil Judge, Ranga Reddy District granted the respondent-writ petitioners temporary injunction restraining the appellants from interfering with their peaceful possession and enjoyment of the suit schedule property which is for an extent of Ac.12.20 guntas in Survey Nos.10 and 11 of Sayedguda Village, Shamshabad Mandal, Ranga Reddy District.

In the order under appeal, the learned Single Judge noted that the learned II Additional Senior Civil Judge, Ranga Reddy District had passed an order in I.A.No.1892 of 2008 in O.S.No.2048 of 2008 dated 14.12.2009 granting temporary injunction in favour of the respondent-writ petitioners and restraining the respondents therein (appellants herein) from

interfering with the peaceful possession and enjoyment of the writ petitioners over the suit schedule property till the disposal of the suit.

Recording the submission of the learned Government Pleader that the police officials were finding it difficult to identify the suit schedule property, the learned Single Judge, following the law laid down by the Supreme Court in ***P.R.Murlidharan vs. Swami Dharmananda Theertha Padar***¹, held that this Court could exercise jurisdiction under Article 226 of the Constitution of India to direct police authorities to provide due protection so as to secure compliance with the interim injunction granted by the trial Court. The Writ Petition was disposed of directing the police authorities concerned to provide adequate protection so as to secure compliance with the interim injunction order dated 14.12.2009 passed in I.A.No.1892 of 2008 in O.S.No.2048 of 2008. The learned Single Judge also held that, in the event the police authorities entertained any doubt as to the identification of A, B and C suit schedule properties in O.S.No.2048 of 2008, they could take assistance of the Revenue authorities for the purpose of identification and demarcation thereof. The Revenue authorities were directed to comply with the request of the police authorities in this regard, and to do the needful.

Sri Suresh Shiva Sagar, learned counsel for the appellants, would submit, not without justification, that the learned Single Judge could not have directed police officials to take the assistance of Revenue officials in demarcating the extent of land for which injunction was granted; it is only where the order of injunction has

¹ (2006)4 Supreme Court Cases 501

attained finality, can a writ of mandamus be issued to provide police protection; against the order passed by the learned II Additional Senior Civil Judge, Ranga Reddy District, the appellants have preferred C.M.A.No.221 of 2010 which is still pending on the file of this Court; the order of the learned II Additional Senior Civil Judge, granting temporary injunction, has not attained finality; and, in such circumstances, the learned Single Judge erred in granting police protection to the respondent-writ petitioners.

In ***P.R.Murlidharan***¹, the respondent therein filed a suit for declaration that he was entitled to continue as a Sanyasi complaining that he was not allowed to discharge the duties attached to the said office. The suit was dismissed for default. An application, for restoration of the suit, was filed which was also dismissed. Before the High Court, construction of the Trust Deed and the rights and obligations arising therefrom, was put in issue. The Supreme Court held that it was one thing to say that, in a given case, a person may be entitled to police protection, having regard to the threat perception; but it was another to say that he was entitled thereto for holding an office and discharging certain functions when his right to do so was open to question; a person cannot approach the High Court for the purpose of determining such disputed questions of fact which were beyond the scope and purport of the writ jurisdiction; a writ, for “police protection” so-called, had only a limited scope, as when the court is approached for protection of rights declared by a decree or by an order passed by a Civil Court; it cannot be extended to cases where rights have not been determined either finally by the Civil Court or, at least, at an interlocutory stage in an unambiguous manner, and that too in

furtherance of the decree or order; and the High Court had erred in issuing a writ of mandamus for police protection.

As noted hereinabove, the order passed by the learned II Additional Senior Civil Judge, granting temporary injunction, was after contest, and after both the parties were heard. It is also not in dispute that the order of temporary injunction continues to remain in force even as on date. The mere fact that the appellants have preferred C.M.A.No.221 of 2010, which is pending on the file of this Court, would not justify their claim that till the C.M.A. is heard and decided, the order passed by the learned II Additional Senior Civil Judge cannot be said to have attained finality. Accepting such a contention would mean that till the matter attains finality by an order of the Supreme Court, the order of injunction granted by the Civil Court cannot be enforced for, even if the C.M.A. preferred by the appellants were to be dismissed by this Court later, they would still have the right to approach the Supreme Court.

We are satisfied that, as long as the order of temporary injunction passed by the Civil Court on contest (i.e. after both the parties to the proceedings are heard) continues to remain in force, the party, in whose favour an order of injunction is passed, is entitled to seek police protection. Needless to state that any order of police protection would only remain in force till the order of injunction is in force, and not thereafter. Consequently the police protection, which the respondent-writ petitioners have been granted, shall remain in force but shall be subject to orders, if any, passed in C.M.A.No.221 of 2010 filed by the appellants.

While we have our doubts whether the police officials could have been permitted, to have the suit schedule land demarcated for the purpose of providing police protection, we are saved the trouble of examining this issue, as Sri U.Muralidhar Rao, learned counsel for the respondent-writ petitioners, would submit that the writ petitioners did not seek such a relief from this Court; and, as the subject land has already been identified, they have no objection for that portion of the order of the learned Single Judge being set aside.

We consider it appropriate, in such circumstances, to set aside that portion of the order of the learned Single Judge whereby the police officials were permitted, in case they had any doubt as to the identification of the A, B and C suit schedule properties, to take the assistance of the Revenue authorities for the purpose of identification and demarcation of the land, as also the direction to the Revenue authorities to comply with the request of the police authorities in this regard. The order of the learned Single Judge, to the extent the police officials concerned were directed to provide adequate police protection so as to secure compliance with the injunction order dated 14.12.2009, is affirmed.

The Writ Appeal is, accordingly, disposed of. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(A.SHANKAR NARAYANA, J)

13th December, 2016
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