

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

CIVIL REVISION PETITION No.142 of 2015

ORDER:

This civil revision petition by the defendants, under Article 227 of the Constitution of India, is directed against the docket orders, dated 27.11.2014, passed by the learned Principal Junior Civil Judge, Nandyal of Kurnool District, in I.A.No.1122 of 2014 in I.A.No.748 of 2014 in O.S.No.281 of 2014 on the file of the said Court.

I have heard the submissions of Sri S.Lakshminarayana Reddy, learned counsel for petitioners/defendants (hereinafter “defendants”) and of Sri B.S.Reddy, learned counsel for the respondent/plaintiff (hereinafter “Plaintiff”).

I have perused the material record.

The facts which are necessary to be stated as a prelude to this order and the facts as borne out by the record and as per the submissions made by the learned counsel before this Court at the hearing, in brief, are as follows:

The plaintiff brought a suit for perpetual injunction against the defendants. In the said suit, the plaintiff filed I.A.No.748 of 2014 for grant of a temporary injunction. The trial Court granted an interim order of injunction in favour of the plaintiff and against the defendants. Later, when the suit was coming up for filing written statement, the defendants were set *ex parte* on 03.12.2014 for not filing the written statement. However, the trial Court did not pass a specific order in the aforestated interlocutory application for temporary injunction that the defendants were set *ex parte* in

that application as well. While so, the plaintiff filed two applications viz., I.A.No.1121 of 2014 for advancing the suit from 03.12.2014 to 26.11.2014 and I.A.No.1122 of 2014 for granting Police aid through Station House Officer, Mahanandi Police Station, to the petitioner/plaintiff and her men for harvesting the paddy crop raised in the plaint schedule property. Since the defendants were set *ex parte* in the suit and as no specific order is passed in the interlocutory application setting them *ex parte*, the trial Court specifically noted the said aspect in the docket orders made in the proceeding sheet on 27.11.2014; while setting the defendants *ex parte* in the said interlocutory application also on that day by passing a specific order, the trial Court advanced the suit by allowing I.A.No.1121 of 2014 and listed I.A.No.1122/2014 on the next day for hearing. On 27.11.2014, the Court below, by a detailed order, allowed, as prayed for, the application for grant of Police aid and directed the S.H.O. of the police station concerned to provide Police aid to the plaintiff for the purpose mentioned in the said application. Aggrieved thereof, the defendants are before this Court.

The learned counsel for defendants would contend that though the defendants were set *ex parte* on 03.12.2014 in the suit, the orders of the Court below reflect that the defendants were not set *ex parte* in I.A.No.748 of 2014, which was filed for temporary injunction, and therefore, the trial Court ought not to have advanced the suit proceedings by allowing I.A.No.1121 of 2014 without notice to the counsel for defendants and also the defendants and that the trial Court ought not to have advanced the suit and ought not to have disposed of I.A.No.1122 of 2014 filed for grant of Police aid on 27.11.2014 by *inter alia* stating that the defendants were set *ex parte* in the

interlocutory application filed for temporary injunction as well. He would also submit that though the defendants were set *ex parte* in the suit on 03.12.2014, they have filed an interlocutory application in I.A.No.1184 of 2014 on 03.12.2014 after giving notice to the counsel for the plaintiff and that the said application was allowed by the trial Court on 08.12.2014 and that the *ex parte* order passed in the suit was set aside. Therefore, he contends that the orders granting Police aid are unsustainable as they were passed without notice to the defendants, who were not set *ex parte* in the application for temporary injunction. He alternately contended that since the Police aid was granted for harvesting one crop as sought for in that application, it may be clarified by this Court that the Police aid orders were granted for that limited purpose of harvesting the crop for that year and that they do not inure for the benefit of the plaintiff any further.

Per contra, learned counsel for plaintiff would contend as follows: “On 17.11.2014, the defendants were set *ex parte* in the suit. However, on that day, the trial Court by oversight did not pass an order setting the defendants *ex parte* in the interlocutory application. The trial Court noted the said mistake while considering the application filed for advancing the suit viz., I.A.No.1121 of 2014. Therefore, the trial Court made the necessary observations in the proceeding sheet and set the defendants *ex parte* in the interlocutory application for temporary injunction as well. Later, the trial Court granted Police aid on 27.11.2014 by passing a speaking order in I.A. No.1122 of 2014. Therefore, there is no irregularity or illegality in the orders granting Police aid. The defendants admittedly filed an application on 03.12.2014 to set aside the *ex parte* order passed against them in the suit and

the said *ex parte* order was set aside on 08.12.2014 by allowing I.A.No.1184 of 2014. The Police aid orders granted in I.A.No.1122 of 2014 worked out for themselves, and therefore, the civil revision petition has become infructuous and is liable to be dismissed.

I have given detailed and thoughtful consideration to the facts and submissions.

The chronology of events, which are stated supra, while stating the introductory facts and the submissions of the learned Counsel for the parties are not in dispute. Therefore, there is no need to dilate on the said factual aspects. Admittedly, the defendants remained *ex parte* in the suit on 17.11.2014. Therefore, in the well considered view of this Court, they cannot be heard to say that they are continuing to contest the interlocutory applications. Be that as it may. Even assuming for a moment that a specific order is required to be passed in the interlocutory application for temporary injunction setting them *ex parte*, the trial Court passed such an order on 26.11.2014 setting the defendants *ex parte* in the interlocutory application filed for grant of temporary injunction as well by taking note of the fact that they had already remained *ex parte* in the suit. Thereafter, the suit proceedings were advanced by allowing I.A.No.1121 of 2014 and Police aid was granted on the next day, that is, on 27.11.2014, by allowing I.A.No.1122 of 2014 by passing a speaking order, however, without giving any opportunity of hearing to the defendants, as the defendants had already remained *ex parte* in the suit and were later set *ex parte* in the interlocutory application also.

Viewed thus, this Court finds that there is no irregularity or illegality calling for interference in the orders of the Court below, which are impugned in this revision.

As rightly pointed out by the learned counsel for defendants/revision petitioners, the Police aid orders were granted for the purpose of harvesting the crop as sought for in the petition by directing the SHO concerned to provide Police aid for the said purpose. A reading of the prayer in the said interlocutory application and the order granted by the trial Court also make it manifest that Police aid orders were granted for the limited purpose of enabling the plaintiff to harvest the crop as sought for in the said petition.

At the hearing, it is also brought to the notice of this Court that I.A.No.748 of 2014 filed for temporary injunction was allowed on merits on 18.12.2015. Though learned counsel for defendants submits that a CMA has been preferred, the said submission is disputed by the learned counsel for plaintiff. Be that as it may.

On the above analysis, this Court finds that there is no merit in the revision and that the revision is liable to be dismissed being devoid of merit.

In the result, the revision petition is dismissed subject to the observations supra, with regard to the orders of Police aid granted by the Court below to the plaintiff. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

M. SEETHARAMA MURTI, J

6th December 2016
ajr