

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SMT JUSTICE ANIS

CONTEMPT CASE No. 947 of 2016

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ORDER: (Per VRS,J)

The 1st respondent in A.S.No.697 of 2005, which arises out of a suit for partition, has come up with this contempt petition, alleging willful disobedience of an interim order of injunction granted by this Court on 23.12.2008.

2. Heard Mr. G. Vasantha Rayudu, learned counsel for the petitioner, Mr. V. Brahmaiah Chowdary, learned counsel appearing for the respondents 1 to 5, and the learned Government Pleader for appeals appearing for the 6th respondent, who is the Sub-Registrar.

3. By an order, dated 23.12.2008, this Court granted an injunction restraining alienation of any suit schedule properties pending disposal of the appeal. The order reads as follows:

“The main contention of the learned counsel for the petitioner is that the respondents are trying to alienate the suit schedule properties, which is disputed by the learned counsel for the respondents. He further submits that the Sy.No.1060/07, from out of which the sale deed dated 25.08.2008 is said to have been executed

by the respondents, is not covered by the suit schedule property.

In view of these circumstances, there shall be a direction to the respondents not to alienate any suit schedule property, pending disposal of the appeal. In so far as the sale deed dated 25.08.2008 is concerned, it shall be subject to the result of the appeal.”

4. Admittedly, the above order is still in force and has not been varied.

5. One of the items of the suit schedule properties is the land in Survey No.1047. It forms part of Schedule-A to the plaint.

6. The respondents 1 to 5 have filed a counter affidavit contending that the land in Survey No.1047 was already divided into house sites, even before the filing of the suit, and that after obtaining sanction from the Grampanchayat, a lay-out was made and the plots were sold. It is claimed by the learned counsel for the respondents 1 to 5 that what is sold is only the land in Survey No.1047/5 and not the land in Survey No.1047.

7. The above admission is sufficient to hold that there is a gross violation of the order of injunction. It is clear that the land in Survey No.1047, which, when sub-divided into smaller extents, becomes Survey Nos.1047/1, 1047/2, etc. Therefore, the land in Survey No.1047/5 is certainly

within the original Survey No.1047.

8. The learned counsel for the respondents 1 to 5 also contends that the boundaries do not tally. But, that is hardly any explanation. There is no dispute about the survey number. Once a larger extent covered by a single survey number is indicated as the suit schedule property, the question of tallying the boundaries of the larger extent with the boundaries of smaller extents carved out of the same, will not arise.

9. In any case, if the respondents 1 to 5 had any doubt about the boundaries not tallying, they could not have presumed that there was no injunction in so far as those lands are concerned, especially when the survey number tallied. The respondents 1 to 5 could have come to Court and sought a clarification that the injunction order would not cover these properties. But, they did not do so.

10. Therefore, it is clear that the respondents 1 to 5 are clearly guilty of committing contempt of Court, by violating the orders of injunction. But, in the light of the last paragraph of the affidavit, where they seek to tender unconditional apology, we are of the view that instead of punishing them, the best way is to put on hold all the Sale Deeds executed by them in relation to the suit schedule properties.

11. Therefore, the Contempt Petition is disposed of,

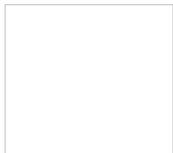
holding the respondents 1 to 5 guilty of willful disobedience and directing the Sub-Registrar to make an entry in the relevant registers of the injunction order in force in respect of the suit schedule properties. The Sale Deeds executed by the respondents 1 to 5, after passing of the order of injunction, cannot be acted upon, until further orders are passed in the regular appeal. The Sale Deeds will be kept in abeyance and the same can be indicated by the Sub-Registrar in the relevant registers.

12. Since the 6th respondent was not a party to the injunction order, we are absolving him, subject, however, to his carrying out the directions with regard to the survey numbers.

V. RAMASUBRAMANIAN, J

ANIS, J.

5th August, 2016
cbs



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