

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.6391 of 2016

ORDER:

It is represented by the learned counsel for the petitioner that inspite of serving of notices on the respondents who are the Deputy Superintendent of Police, Circle Inspector of Police and Sub Inspector of Police, Chittoor District on 03.02.2017, there is no representation. He also filed material evidencing proof of service.

2. The present civil revision petition is filed against the order dated 02.12.2016 in E.A.No.186 of 2016 in O.E.P.No.92 of 2015 in O.S.No.1177 of 2007 on the file of I Additional Junior Civil Judge, Tirupati, wherein the petitioner's request to direct the respondents/judgment debtors to deposit the keys and other computer gadgets into the Court, was rejected.

3. The facts in issue are as under:

On 04.10.2016, the respondents in collusion with each other forcibly entered the Society premises and caused extensive damage to the property as well as to the systems i.e., CC Cameras, chairs, etc. and took away two hard discs, 2 CPUs, 2 monitors, 3 CC cameras, one TV from the premises to the police station. It is stated that the said action took place in the presence of an Advocate Commissioner who was appointed by the Court to observe the activities in the Society. The Court Commissioner

tried to resist the high handed and illegal acts of the respondents, but they pushed him away, locked the premises and went away. Hence an application came to be filed seeking release of those gadgets. But the Court below rejected the said application. Basing on Exs.R1 to R5, the trial Court held that the respondents have raided the premises in the presence of the Court commissioner, who did not say anything against the police except that he was sent out at the time of raid. Hence it was found that there is no illegality or irregularity in the process of conducting raid. The said order is the subject matter of challenge in the present revision.

4. Learned counsel for the petitioner mainly submits that if really there was any search or seizure pursuant to the crime registered under the provision of the Gaming Act, definitely there should have been panchanama showing seizure of the premises and also seizure of the gadgets. In the absence of panchanama, any action done by the authorities with regard to closure of the society, any seizure of the articles would vitiate the process of law. Further, he submits that inspite of service of notices to the respondents, there is no representation on their behalf which shows their intention.

5. As seen from the impugned order, the respondents got marked 5 documents vide Exs.R1 to R5 namely copy of proceedings of SDPO, Tirupati East declaring the President of the Society as Rowdy Sheeter, dated 20.02.2016, Copy of FIR in Crime No.209 of 2016 dated 05.10.2016, Copy of Mahazarnama, dated

04.10.2016, Copy of FIR in crime No.212 of 2016, dated 09.10.2016 and copy of Mahazarnama dated 09.10.2016. A reading of the Mahazarnama nowhere indicates seizure of the premises or computer gadgets. Infact learned counsel for the petitioners submits that even the panchanama dated 09.10.2016 is silent on these aspects, but the same is not filed before this Court. The material placed on record except panchanama dated 09.10.2016, does not anywhere indicate seizure of the premises or computer gadgets, as observed by the Advocate Commissioner in his report. Infact the Advocate Commissioner who was present at the time of the alleged raid spoke about assault made by the police and also breaking of safe locker and damaging of computer system, taking away of hard disc, C.P.U.Modem and Portable T.V. etc. He also speaks about premises being locked by two police constables at about 05.45 p.m. Having regard to the above, it is urged that the action done by the police is illegal.

6. The material placed on record do not show seizure of the premises or the articles namely hard discs, CPU, Modem and portable TV from the premises. Hence, the trial Court, before whom EP is pending, shall conduct enquiry, in accordance with law, as to whether the property is seized and whether the premises is locked. If the trial Court is of the opinion that the said premises has been locked and if the said closure of premises is without any material or panchanama being prepared at the time of closure, the trail Court shall immediately act in accordance with law.

7. Accordingly, the CRP is disposed of. No costs.

As a sequel thereto, Miscellaneous Petitions, if any, pending, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

23.02.2017

vhb

