

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION No.790 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 17.01.2017 in I.A.No.1480 of 2016 in C.M.A.No.65 of 2016 on the file of the XXV Additional Chief Judge, City Civil Court at Hyderabad.

2. A perusal of the record reveals that the petitioners herein have filed O.S.No.955 of 2015 on the file of the XIX Junior Civil Judge, City Civil Court, Hyderabad, against respondent Nos.1 and 2 seeking perpetual injunction in respect of the suit schedule property. The petitioners have also filed I.A.No.126 of 2015 in O.S.No.955 of 2015 seeking ad-interim injunction. Pending the said I.A., the third respondent herein was impleaded as third respondent therein, in pursuance of the order dated 01.04.2016 in I.A.No.263 of 2015.

3. During enquiry, on behalf of the petitioners, Exs.P.1 to P.7 were marked. On behalf of the respondents, Exs.R.1 to R.6 were marked.

4. Basing on the documentary evidence and other material available on record, the trial Court arrived at a conclusion that the petitioners herein are not entitled for interim injunction and dismissed the petition on 14.09.2016.

5. Feeling aggrieved by the order dated 14.09.2016 in I.A.No.126 of 2015 in O.S.No.955 of 2015, the petitioners herein have filed C.M.A.No.65 of 2016 on the file of the XXV Additional

Chief Judge, City Civil Court at Hyderabad. The petitioners have also filed I.A.No.1480 of 2016 in C.M.A.No.65 of 2016 seeking interim injunction. The appellate Court initially granted *ex-parte status quo* order on 13.10.2016. After affording a reasonable opportunity to both parties, the appellate Court dismissed the said I.A. Hence, the present revision.

6. The predominant contention of the learned counsel for the petitioners is that the trial Court as well as the appellate Court misconstrued the material available on record and dismissed the interim injunction applications filed by the petitioners.

7. Establishment of *prima facie* case, balance of convenience in favour of the petitioner and irreparable loss likely to be caused to the petitioner is *sine qua non* to grant an interim injunction. The trial Court, after considering the documentary evidence and other material available on record, arrived at a conclusion that the petitioners are not entitled for interim injunction. The appellate Court also in I.A.No.1480 of 2016 in C.M.A.No.65 of 2016 arrived at a conclusion that the petitioners herein have failed to prove the basic ingredients for granting of interim injunction. It is needless to say that a person, who seeks ad-interim injunction, has to establish that he was in possession of the property as on the date of filing of the suit. It is a settled principle of law that a person, who seeks discretionary relief, has to approach the Court with clean hands.

8. A perusal of the record reveals that C.M.A.No.65 of 2016 is pending before the appellate Court. If this Court expresses any

opinion touching the merits of the main case, the same may cause prejudice to one of the parties to the proceedings.

9. Learned counsel for the petitioners requested this Court at least to grant *status quo* order. I am of the considered view that the Court has to grant interim injunction or refuse to grant interim injunction. Sometimes granting of *status quo* order leads to unnecessary litigation.

10. It is needless to say that this Court shall not lightly interfere with the discretionary orders passed by the appellate Court while exercising the jurisdiction under Article 227 of the Constitution of India. There is no illegality or irregularity in the order of the appellate Court, which warrants interference of this Court. Hence, there are no grounds much less valid grounds to interfere with the said order.

11. Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

12. Consequently, Miscellaneous Petitions, if any, pending in this Civil Revision Petition shall stand closed.

T.SUNIL CHOWDARY, J

Date: 22.02.2017
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