

HONOURABLE SRI JUSTICE P. NAVEEN RAO

CIVIL REVISION PETITION No. 5808 2010

Date :3.8.2017

Between :

Gone Mallikamba W/o Gone Krishna Reddy
73 years R/o Sivalingapuram
Manuguru mandal

Petitioner

And

Pusuluri Seenetharani W/o Srinivasa Rao
36 yrs
R/o Srinivasanagar, Khammam town and others

Respondents

The Court made the following:



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ORAL ORDER:

Petitioner herein is defendant no.4. Plaintiffs filed O S No. 25 of 2002 in the Court of the Agent to Government at Khammam to grant perpetual injunction. Petitioner herein and three others were arrayed as defendants. However, plaintiffs filed a memo before the Agency Court that they are not pressing the suit against defendants 1,2 and 4, as such, they were discharged from the suit proceedings. However, judgment was rendered in the suit granting injunction against all the defendants. Aggrieved by the judgment of the Agency Court, petitioner herein filed A.S. No. 135 of 2011 before this Court. This Court by order dated 14.3.2011 made in ASMP No. 500 of 2011 granted interim suspension of the operation of the judgment and the appeal is pending.

2. Plaintiffs filed EP No. 11 of 2010 alleging particularly that the third defendant against whom the suit was prosecuted was illegally interfering with the peaceful possession and enjoyment in violation of the judgment rendered in his favour. The pleadings made in the E.P. would show that grievance of the plaintiffs was only against third defendant in the suit, however, the Agency Court passed orders dated 14.10.2010 directing the Station House Officer to protect the possession of the decree holder.

3. Learned counsel for petitioner contends that as petitioner/fourth defendant was discharged from the suit proceedings and that he was in possession prior to institution of the suit and after the suit was instituted, his possession and enjoyment cannot be denied merely because the plaintiffs obtained judgment from the Agency Court against all the respondents. Orders can be passed only against third defendant but not against the petitioner herein.

4. Though notice is served, no appearance is entered.

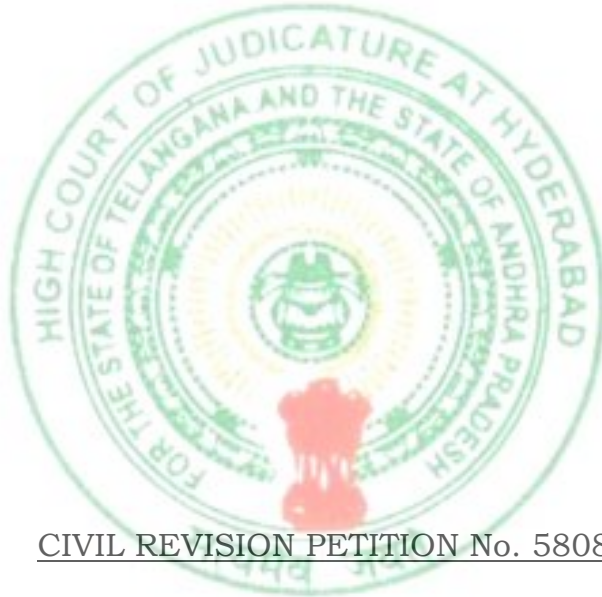
5. As already noticed by this Court at the time of granting interim order dated 30.4.2011, no execution proceedings can be maintained against the petitioner herein since no claim was made by plaintiffs and in fact petitioner herein was discharged from the suit proceedings. Further more, this Court granted suspension of the operation of the judgment of the Agency Court. For all the above reasons, the order passed by Agency Court in E.P No. 11 of 2010 in so far petitioner herein is concerned is not valid in law and the same is hereby set aside. Accordingly, the revision petition is allowed. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

DATE:03-08-2017.
TVK



P NAVEEN RAO,J

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