

HON'BLE SRI JUSTICE Dr. B. SIVA SANKARA RAO

CIVIL REVISION PETITION No.4109 of 2011

ORDER:

The plaintiff is the revision petitioner. The plaintiff maintained O.S.No.220 of 2007 against the revision respondents/defendants, the suit for the relief of declaration of plaintiff's right over plaint schedule property with consequential permanent injunction restraining them and costs and for such other reliefs.

Pending suit, the plaintiff filed I.A.No.1348 of 2007 for temporary injunction under Order XXXIX Rules 1 & 2 CPC. The trial Court having granted ad interim injunction, after contest dismissed the injunction application by vacating ad interim injunction dated 18.09.2007 by order dated 12.10.2007. Impugning the same, CMA.No.44 of 2007 maintained against the said order of Senior Civil Judge, Kovvur, before the II Additional District Judge, Eluru. The lower appellate Court dismissed the appeal by order dated 11.07.2011. It is impugning the same, the present revision is maintained.

Leave apart the matter is kept pending all through since 2011 without even ordering notice and all through coming for admission. At this stage with no necessity of ordering notice and keeping the matter further pending, for any injunction order is co-terminus with the suit apart from none of the observations in temporary injunction application either granting or refusing will influence the mind of the trial Court in deciding the suit, but for on own merits after full dressed trial by appreciation of the evidence placed on record oral and documentary in deciding the

onus probandi on whose favour the preponderance of possibilities in favour of proof lies.

Having regard to the above, the Civil Revision Petition is disposed of with a direction to the trial Court to take up suit, if not already in progress of trial and to dispose of the same within four (04) months from the date of receipt of this order and with further observation that none of the observations of the trial Court or the lower appellate Court in granting ex parte interim injunction and later vacating including by confirmation will influence the mind of trial Court nor prejudice any of the rights of the parties.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

Date: 28.11.2017
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JUSTICE Dr. B.SIVA SANKARA RAO

