

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No. 1199 of 2017

ORDER:

- 1) The present Civil Revision Petition is filed, challenging the order dated 13.02.2017 passed in I.A.No.799 of 2016 in O.S.No.169 of 2015 on the file of the Principal Junior Civil Judge, Punganur, wherein a direction was given to the Station House Officer, Ramasamudram Police Station to provide police aid to the petitioners/ plaintiffs.
- 2) The petitioners herein are defendants and respondents herein are plaintiffs before the trial Court. For the sake of convenience the parties hereinafter referred to as arrayed before the trial Court.
- 3) The facts in issue are as under:

The plaintiffs filed O.S.No.169 of 2015 on the file of the Principal Junior Civil Judge, Punganur, seeking permanent injunction against the defendants, their men and agents from in any way interfering with the peaceful possession and enjoyment of the plaintiffs over the suit schedule properties. Along with the suit, the plaintiffs filed I.A.No.338 of 2015 seeking ad-interim temporary injunction. By an order, dated 22.02.2016, the trial Court allowed the said I.A. granting

interim injunction in favour of the plaintiffs, restraining the defendants from interfering with the peaceful possession and enjoyment of the plaintiffs over the schedule property till the disposal of the suit. Since the defendants are continuously causing trouble, the plaintiffs filed I.A.No.779 of 2016 seeking police aid. In the affidavit filed in support of the petition it was categorically stated that the defendants have damaged the pipe line and also the standing crop.

4) A counter came to be filed disputing the averments made in the affidavit filed in support of the petition. It has been categorically admitted in the counter that the order passed in I.A.No.338 of 2015 was challenged by way of filing C.M.A.No.2 of 2016 on the file of the Senior Civil Judge, Punganur and the same is pending consideration before the said Court. It is further stated that two suits are pending between the parties in respect of very same property as such ordering police protection would cause irreparable damage to the defendants. As per the counter, the first defendant is in peaceful possession and enjoyment of the suit schedule property and he purchased the same from the fourth defendant. It is his case that since the documents showing the right of the first defendant could not be filed, temporary injunction came to be granted and the same is challenged by

way of C.M.A. At this stage, ordering of police protection is un-warranted and illegal.

5) After considering the rival submissions, the trial Court ordered police protection. Challenging the same, the present Civil Revision Petition is filed.

6) Learned counsel for the petitioners submits that since the C.M.A. is still pending consideration, the question of granting police protection would be illegal and improper. He further submits that the Court below advanced the petition from 02.03.2017 to 07.02.2017 vide I.A.No.882 of 2016 without filing counter in the said I.A., as such, the haste with which the Court below acted, created any amount of doubt regarding the order passed. It is further urged that though the fourth petitioner obtained injunction order against the plaintiffs in O.S.No.26 of 2010 but the same is not implemented for the last six years. In view of the above, it is mainly urged that atleast till suitable orders are passed in C.M.A. the impugned order may be suspended.

7) Learned counsel for the respondents opposed the same stating that along with the C.M.A. the petitioners filed stay application but no orders are passed till date. Hence, instead of approaching this Court against the order passed in I.A.No.779 of 2016, the petitioners have to file a petition in

C.M.A. According to him, if the interim injunction granted in favour of the respondents is stayed by the appellate Court, definitely the question of granting police protection would not arise.

8) As seen from the record, the orders in I.A.No.338 of 2015 in O.S.No.169 of 2015 came to be passed on 22.02.2016. Challenging the said order, the petitioners herein filed C.M.A.No.2 of 2016 before the Senior Civil Judge, Punganur on 10.03.2016, raising the very same grounds which are now urged. Along with the said C.M.A., the petitioners also filed stay application. As the petitioners are causing disturbance not only to the crop but also to the path way laid therein, I.A.No.779 of 2016 came to be filed on 26.08.2016. After giving opportunity to the petitioners, the impugned order came to be passed on 13.02.2017. It is urged that C.M.A. filed by the petitioners herein against the order in I.A.No.388 of 2015 is still pending and no interim order are passed in the I.A. filed along with the C.M.A. Since the interim injunction granted in favour of the respondents is still in force and having regard to the nature of allegations made, this Court is of the view that there is no illegality in granting police protection. In fact it cannot be said that the order granting police protection was passed in a routine manner. Since the appeal is pending, it may not be proper for this Court to say

as to whether the trial Court was right in granting interim injunction which lead to granting police protection.

9) Hence, the present C.R.P. is disposed of, giving liberty to the petitioners to raise all the grounds before the appellate Court. It is made clear that any observations made in this order are only for the purpose of deciding the present revision and the appellate Court shall proceed with the C.M.A. un-influenced by the said observations. Having regard to the urgency involved, the trial Court shall take steps and dispose of the C.M.A. as early as possible, preferably, within a period of three months from the date of receipt of a copy of the order, or at least pass appropriate orders in the I.A. filed along with the C.M.A.

10) There shall be no order as to costs. Miscellaneous petitions, pending, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

13.06.2017

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