

**THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY**

**CIVIL REVISION PETITION No.773 OF 2017**

**ORDER:**

This Civil Revision Petition is filed under Article 227 of the Constitution of India challenging the order dated 29.11.2016 in I.A.No.46 of 2016 in O.S.No.57 of 2016 on the file of the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam.

2. A perusal of the record reveals that the petitioner herein filed O.S.No.57 of 2016 against the respondents herein seeking perpetual injunction in respect of an extent of Ac.6.00 cents in Survey No.35/1a of Ramapuram (Z) Village, Wazeedu Mandal, Khammam District. Along with the suit, the petitioner filed I.A.No.46 of 2016 under Rule 42 (C) of A.P. Agency Rules seeking interim injunction. The trial Court, after affording a reasonable opportunity to both parties, dismissed the petition. Hence, the present revision.

3. The predominant contention of the learned counsel for the petitioner is that the trial Court dismissed the petition without taking into consideration the material available on record. He further submitted that the finding of the trial Court that the petitioner suppressed the material facts is not sustainable on facts.

4. It is the case of the petitioner that one Lakshmaiah is the owner of an extent of Ac.13.85 cents in Survey No.35/1a of Ramapuram (Z) Village, Wazeedu Mandal, Khammam District. The petitioner is the son of late Lakshmaiah through his first wife. Respondent No.2 is the second wife and respondent Nos.1 and 3

are the sons of late Lakshmaiah. It is the case of the petitioner that during life time of Lakshmaiah, the family properties were partitioned and the petitioner got an extent of Acs.6.00 out of Ac.13.85 cents. It is the case of the petitioner that the respondents without any right whatsoever interfering with the suit schedule property. It is the case of the respondents that the petitioner has no right whatsoever in the suit schedule property.

5. A perusal of the record reveals that the petitioner filed O.S.No.319 of 2007 on the file of the Sub-Divisional Magistrate and Special Assistant Agent to Government, Mobile Court, Bhadrachalam, against the respondents and two others in respect of an extent of Ac.6.00 cents in Survey No.35/1a of Ramapuram (Z) Village, Wazeedu Mandal, Khammam District. Along with the suit, the petitioner filed I.A.No.148 of 2007 seeking temporary injunction. The trial Court initially granted *ex-parte* interim injunction in favour of the petitioner. Thereafter, the respondents in I.A.No.148 of 2007 filed I.A.No.35 of 2008 to vacate the *ex-parte* interim order. After affording a reasonable opportunity to both parties, the trial Court modified the interim injunction as *status quo*.

6. It is a settled principle of law that a person, who suppressed the material facts, is not entitled to claim equitable relief of interim injunction. In the instant case, for one reason or other, the petitioner did not mention in the plaint about the filing of the suit by him in O.S.No.319 of 2007. The petitioner also suppressed the *factum* of modification of the interim order in I.A.No.35 of 2008 in O.S.No.319 of 2007. It is the duty of the petitioner to mention

about the pendency of the previous suit. For the reasons best known to him, the petitioner did not disclose the pendency of O.S.No.319 of 2007. In such circumstances, whether the petitioner is entitled for the equitable relief of interim injunction or not. The trial Court dismissed the petition on the sole ground that the petitioner suppressed the material facts i.e., pendency of O.S.No.319 of 2007 wherein the respondents are defendants. By suppressing that material fact, the petitioner filed the present petition with an ulterior motive seeking equitable relief of injunction. A person, who suppressed the material fact, is not entitled to seek interim injunction. Moreover, the order passed in I.A.No.35 of 2008 in I.A.No.148 of 2007 in O.S.No.319 of 2007 is in force even as on today and is binding on the petitioner and the respondents. In such circumstances, filing of the petition seeking interim injunction is not justifiable. The trial Court has assigned reasons much less cogent and valid reasons while dismissing the petition. I am fully endorsing with the findings recorded by the trial Court. Viewed from any angle either on facts or in law, the petition is liable to be dismissed.

7. Accordingly, the Civil Revision Petition is dismissed at the admission stage. There shall be no order as to costs.

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

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**T.SUNIL CHOWDARY, J**

Date: 23.02.2017  
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