

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION NO.2210 OF 2011

ORDER:

This Civil Revision Petition is filed by the petitioner under Article 227 of the Constitution of India challenging the judgment, dated 19.02.2011 in C.M.A.No.52 of 2010 passed by the II Additional District Judge, Ranga Reddy District, whereunder and whereby the order, dated 07.05.2010 passed in I.A.No.160 of 2010 in O.S.No.26 of 2010 by the Additional Junior Civil Judge-cum-XVII M.M. Cyberabad at Rajendranagar, Ranga Reddy District, was reversed setting aside the interim injunction granted by the Trial Court.

Dealing with similar case in C.R.P.No.2249 of 2016, this Court passed an order, the operative portion reads as under:

“Both parties set-up rival claim over the property while claiming that they are in possession and enjoyment of the property and the trial Court without deciding as to who is in possession of the property set aside the ad-interim injunction passed by it and directed both parties to maintain status-quo and the same was challenged in appeal and the appellate Court set aside the order passed by the trial Court and said order was in force. Surprisingly this Court also directed the parties to maintain status-quo by order dated 10-06-2016 to decide as to who is in possession of the property as on the date of filing of suit and petition and the same is in force till today. Admittedly the suit is of the year 2012 and it is pending before the Junior Civil Judge, Cyberabad at Hayathnagar.

For grant of injunction, the petitioner has to establish three requirements, which are *sine-qua-non* for grant of temporary injunction during pendency of the suit, viz; prima facie case, balance of convenience and irreparable loss. *Prima facie* case is not defined in anywhere, but the Court has to find out whether the petitioner is able to establish any arguable case in the main petition or a good case to go for trial. The word ‘prima facie case’ is explained by the Supreme Court in **Ms.Julien Educational Trust v. Sourendra Kumar Roy and others**¹

¹ 2010 (1) ALT Page 58 SC

and United Commercial Bank v. Bank of India². In view of the principles laid down in the above judgments, the Court should consider whether bonafide contention between the parties or a serious question to be tried or case which as to go for trial or bonafide contention between the parties or a serious question to be tried. In the present case, the petitioner is claiming title over the property based on registered documents marked as Exs P.1 and P.2. At the same time, the respondents are also claiming title over the property under Exs R.1 to R.6. Exs R.1 to R.6 at best would show that the defendants 2 and 3 purchased the property through registered G.P.A. holder by name J.Ailoo. None of the documents would show that vendor of the defendants 2, 3 and 4 is the owner of the property. In any view of the matter, in view of the voluminous documentary evidence marked as Exs P.1 to 28, there is dispute to go for trial or bonafide contention between the parties to go for trial. Therefore, there is prima facie case in favour of the petitioner. At the same time, Ex.R.31 which is the basis for reversing the finding, as an illegal sanction of lay out by the Grampanchayat, since lay out has to be sanctioned by the Director of Country and Town Planning not by the Grampanchayat. Therefore, based on such illegally sanctioned lay out, it is difficult to hold that the respondents are in possession of the property. In any view of the matter, the order of status-quo is in force and more over no finding is recorded either by the trial Court or the appellate Court or this Court while passing orders to maintain status-quo by both the parties. In such a case, it is just and reasonable to direct both parties to maintain the status-quo while directing the trial Court to dispose of suit as expeditiously as possible.

The same question came before the Apex Court in **M/s.Akriti Land Con Pvt. Ltd. V. Krishna Bhargava and others**³, wherein the Apex Court in an identical situation while deciding the appeal arising out of SLP held that when an application for temporary injunction was filed restraining the defendants from transferring property or making any construction was dismissed by the trial Court and the High Court allowed the same by directing to maintain status-quo and directing the trial Court to dispose of case within nine months. Aggrieved by the order, the SLP is filed. The Apex Court stayed the impugned order subject to condition, the petitioner shall not transfer title in 30 flats proposed to be constructed on the property. In those circumstances, the Apex Court disposed of civil appeal holding that finding recorded while considering grant of injunction is always considered prima facie in nature and is confined to disposal of such interlocutory proceedings. Without recording any finding the Apex Court directed the trial Court to expedite the disposal of case and interim order of Apex Court ordered to be continued. By applying the same analogy to the present case, I find that it is a fit case to both parties to maintain status-quo while directing the trial Court to decide the suit pending before it as expeditiously as possible in any event not later than six months from the date of receipt of order of this Court, as the trial Court granted ad-interim injunction initially and later it was set aside while directing both parties to maintain status-quo by order dated 21-03-2014 and the

² AIR 1981 SC Page 1426

³ JT 2017 (4) SC 379

same was reversed in CMA.No.36 of 2014. Till 05-01-2016 the order passed by the trial Court i.e. to maintain status-quo was in force from 21-03-2014. This Court also passed order directing the both parties to maintain status-quo on 10-06-2016 and it is in force till today. Therefore, it is just and necessary to issue same direction as directed by the Apex Court in the judgment cited (3 supra) without touching the merits of the case and requirements for grant of interim injunction.

Hence, in view of my foregoing discussion, the revision petition is disposed of directing both parties to maintain status-quo while directing the Junior Civil Judge, Cyberabad at Hayathnagar, to decide the suit O.S.No.232 of 2012, in accordance with law, as expeditiously as possible and in any event not later than six months from the date of receipt of a copy of this order. In consequence, Miscellaneous Petitions, if any, pending in this revision petition shall stand dismissed.

Let there be a similar order even in this case.

In the result, the revision petition is disposed of directing both parties to maintain status-quo while directing the Additional Junior Civil Judge-cum-XVII Metropolitan Magistrate, Rajendranagar, to decide the suit O.S.No.26 of 2010, in accordance with law, as expeditiously as possible, and in any event not later than six months from the date of receipt of a copy of this order.

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

JUSTICE M.SATYANARAYANA MURTHY

Dated: 16-06-2017

SP