

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CIVIL REVISION PETITION NO.3080 OF 2017

ORDER:

This Civil Revision Petition is filed under Article 227 of the Constitution of India, challenging the order, dated 07.11.2016 in I.A.No.572 of 2016 in I.A.No.13 of 2010 in O.S.No.39 of 2010 on the file of the Special Assistant Agent and Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, wherein and whereby the application filed seeking police aid, was allowed.

2. The petitioners herein are defendants, whereas the respondent herein is the plaintiff in O.S.No.39 of 2010.

3. Learned counsel for the petitioners (defendants) submitted that the trial Court without giving notice to the petitioners, granted police aid in favour of the respondent (plaintiff). He further submitted that the trial Court ought not to have granted police aid without giving reasonable opportunity to the petitioners. He further submitted that the order passed by the trial Court is not sustainable either in law or on facts.

4. Per contra, learned counsel for the respondent (plaintiff) submitted that the trial Court after taking into consideration the order passed in I.A.No.13 of 2010 in O.S.No.39 of 2010 granted police aid. He further submitted that since the petitioners are interfering with the suit schedule property, the trial Court granted police aid.

5. A perusal of the record reveals that the respondent filed the above suit against the petitioners on the file of the Special Assistant Agent and Sub-Divisional Magistrate, Mobile Court, Bhadrachalam, seeking perpetual

injunction in respect of land to an extent of Ac.5.00 in Sy.No.32/1, Ac.2.95 cents in Sy.No.44/1, Ac.2.10 cents in Sy.No.44/3, Ac.2.10 cents in Sy.No.45/3, Ac.2.30 cents in Sy.No.45/2, Ac.13.70 cents in Sy.No.45/5 and Ac.3.35 cents in Sy.No.45/7 of Jangalapalli village of Charla Mandal, Bhadravadi Kothagudem District. Along with the suit, the respondent filed I.A.No.13 of 2010 under Rule 42 (c) of A.P. Agency Rules seeking interim injunction and the same was allowed on 17.07.2010. While things stood thus, the respondent filed I.A.No.572 of 2016 in I.A.No.13 of 2010 in O.S.No.39 of 2010 seeking police aid. The trial Court granted police aid in favour of the respondent on 07.11.2016. Hence, this revision.

6. A perusal of the record reveals that the petitioners made their appearance in the suit. It is needless to say that before granting police aid in favour of the respondent, the trial Court ought to have issued a notice to the petitioners. The record further reveals that no opportunity was given to the petitioners to file counter in I.A.No.572 of 2016. The record reveals that the respondent filed I.A.No.572 of 2016 seeking police aid on 01.11.2016 and the same was allowed on 07.11.2016. The record clinchingly establishes that no notice was given to the petitioners before passing the order by the trial Court in I.A.No.572 of 2016. As rightly pointed out by the learned counsel for the petitioners the trial Court passed the order without giving an opportunity to the petitioners to file counter opposing the petition. The record reveals that the trial Court passed an *ex parte* order, which is in violation of principles of natural justice. If the order of the trial Court is allowed to stand, certainly it would amount to mis-carriage of justice.

7. Taking into consideration the facts and circumstances of the case, this Court is of the considered view that it is a fit case to set aside the impugned order, dated 07.11.2016.

8. Accordingly, the Civil Revision Petition is allowed setting aside the order, dated 07.11.2016, in I.A.No.572 of 2016 in I.A.No.13 of 2010 in O.S.No.39 of 2010 on the file of the Special Assistant Agent and Sub-Divisional Magistrate, Mobile Court, Bhadrachalam. However, the trial Court is hereby directed to dispose of I.A.No.572 of 2016, after affording reasonable opportunity to the petitioners to file their counter, in accordance with law within a period of three (3) months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous petitions, if any pending, in this Civil Revision Petition shall stand closed.

DATED: 27-10-2017.
Hsd

T.SUNIL CHOWDARY, J

