THE HON'BLE SRI JUSTICE M.S.K.JAISWAL

CIVIL REVISION PETITION No.1146 of 2017

ORDER:

This civil revision petition is filed by the petitioner/plaintiff against the judgment, dated 09.08.2016, in C.M.A.No.01 of 2015, on the file of the VI Additional District Judge, Sompeta, by and under which, the court below allowed the appeal filed by the defendants by setting aside the interim stay order, passed by the trial Court.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

3. The petitioner/plaintiff filed the suit O.S.No.79/2013 on the file of the Senior Civil Judge, Sompeta against the respondents for permanent injunction in respect of the suit schedule property, admeasuring Ac.0.83 cents in Sy.No.219/7 situated in Mogalipadu village, Kasibugga Municipality, Srikakulam District, claiming that he has been in possession and enjoyment of the schedule property, having purchased the same under valid registered sale deed from his vendor. Originally the property belonged to one Konchada Ramamurthy. According to the petitioner, the said Konchada Ramamurthy sold the schedule property to his own brother, by name Konchada Ganapathirao, under an unregistered sale deed, dated 15.05.1979 for Rs.21,000/- and thereafter, mutation was effected in the name of Konchada Ganapathirao. In turn, the petitioner purchased the schedule property from Konchada Ganapathirao under a registered sale deed, dated 07.02.2013 for a consideration of Rs.16,00,000/- and since then, the petitioner has been in possession and enjoyment of the schedule property.

4. According to the respondents/defendants, the story narrated by the petitioner is false. They stated that the 1st respondent purchased an extent of Ac.0.26 cents out of total extent of Ac.0.83 cents from the original owner Sri Konchada Ramamurthy under a registered sale deed, dated 15.06.2004, and thereafter, he sold an extent of Ac.0.12 cents to the 2nd respondent by way of registered sale deed dated 23.02.2010. The 3rd respondent is also one of the purchaser of an extent of Ac.15 cents under registered sale deed dated 22.01.2005. It is also contended that the 2nd respondent has also purchased an extent of Ac.0.36 cents from Sri Konchada Ramamurthy under registered sale deed, dated 06.02.2010. Respondents, by way of individual sale deeds, have purchased more than Ac.0.77 cents from the real owner Sri Konchada Ramamurthy. Since the date of purchase, they have been in peaceful possession and enjoyment of the said property. When the petitioner sent notices, the respondents were forced to approach the civil court and they have filed civil suits against the petitioner and his vendor Konchada Ganapathirao. It is further contended that the respondents filed criminal complaints against the concerned Tahsildar for issuing false and fake revenue records in favour of the petitioner/plaintiff without following the procedure as contemplated under Sections 4 and 5 (A) of ROR Act.

5. Initially, the trial court, based on the documentary evidence produced by the petitioner, granted interim injunction in his favour in IA.No.91/2013, vide orders dated 04.02.2015. Against the said order, the respondents preferred CMA and the Court below on reappraisal of the documentary evidence adduced on either side, set aside the interim

injunction order, dated 04.02.2015 and allowed the appeal, vide judgment, dated 09.08.2016.

6. Learned Counsel appearing for the petitioner submits that the appellate Court grossly erred in allowing the appeal by setting aside the well considered order of the trial Court which granted injunction originally on 03.04.2013 and made absolute on contest. The appellate Court also erred in relying on Ex.R.6 which is the letter purported to have been issued by Tahasildar and addressed to the Station House Officer, Palasa, in Crime No.74 of 2013 stating that the title deeds, pattedar passbooks etc., issued in favour of the petitioner are fake and forged. Excepting for such a letter, nothing is there on record to show that it is the respondents who have been in possession of the suit schedule lands on the date when the suit is filed. The revenue records *prima facie* show that the title vested with Ganapathi Rao, from whom the petitioner purchased the suit schedule lands under registered sale deed. It is further submitted that right from 03.04.2013, there is an injunction in favour of the petitioner and therefore pending disposal of the suit, the same can be continued.

7. On the other hand, learned Counsel appearing for the respondents submits that the documents that are produced are not genuine and therefore the appellate Court did not accept the title deeds etc., in favour of the petitioner or his vendor and vacated the injunction. There are no merits in the revision and the same is liable to be dismissed.

8. The point for consideration is as to whether the petitioner *prima facie* establishes that it is he who is in possession and enjoyment of suit schedule lands as on the date when the suit is filed so as to maintain the

interim injunction granted in his favour on 03.04.2013 pending disposal of the suit?

9. The admitted case is that the suit schedule land is admeasuring about Ac.0.83 cents in Sy.No.219/7 of Mogalipadu village, was originally owned by one Mahalaxmi. From the said Mahalaxmi, one K.Rama Murthy purchased the same under registered sale deed on 09.08.1977. It is also not in dispute that the one Ganapathi Rao is the brother of said Rama Murthy. According to the petitioner, Rama Murthy sold the suit land to his brother under un-registered sale deed on 15.05.1979 and from the said Ganapathi Rao, the petitioner purchased the same under registered sale deed on 07.02.2013 for a valuable consideration of Rs.16 lakhs. The petitioner produced revenue records to show that it is Ganpathi Rao who was the owner and possessor of the property and accordingly, the petitioner purchased the same.

10. The case of the respondents is that they purchased a total extent of Ac.0.77 cents of land directly from K. Rama Murthy under registered sale deeds, details of which have been stated supra. The respondents submit that on the basis of false and fabricated revenue records, the name of Ganapathi Rao came to be incorporated in the revenue records and on that basis, the petitioner claims to have purchased the land from Ganapathi Rao.

11. It is also the contention of the respondents that after the petitioner filed the present suit, they also filed suits bearing O.S.Nos.127, 128 and 129 of 2013 on the file of the same Court against the petitioner and his vendor and also filed a police complaint. It is not placed on

record as to whether any interim orders have been passed in those suits in favour of the respondents.

12. In adjudicating the injunction pending disposal of the suit, what is required to be seen is as to whether there is a *prima facie* case in favour of the petitioner, and balance of convenience lies in granting injunction, lest, the petitioner will suffer irreparable loss which cannot be compensated.

13. Revenue records issued by the competent authorities have to be taken into consideration for adjudicating the *prima facie* case. If its genuineness or authenticity is in controversy, the same has to be decided in the suit after full-fledged trial. The interlocutory applications for injunction pending disposal of the suit need to be adjudicated on the basis of the material on record and the affidavits filed in support of the respective contentions.

14. According to the petitioner, he purchased the land from Ganapathi Rao, who in turn purchased it from his brother in 1979. Ex.P.1 is the un-registered sale deed, dated 16.05.1979; Ex.P.2 is the pattedar passbook; Ex.P.3 is the title deed; Ex.P.4 is the adangal copy issued by Tahasildar; Ex.P.5 is the adangal which was obtained from Mee-Seva Centre; Ex.P.6 is the 1-B Register; Ex.P.7 is the FMB issued by Mee-Seva Centre; Ex.P.8 is the registered sale deed, dated 07.02.2013; Ex.P.9 is the pattedar passbook; Ex.P.10 is the title deed; and Ex.P.11 is the adangal. These documents consistently show that the suit schedule lands were owned and possessed by Ganapathi Rao and subsequently it was purchased by the petitioner in the year 2013 and thereafter his name has been recorded in the revenue records.

15. Contrary to the above is the claim of the respondents who also claimed to have purchased part of the suit schedule lands from Rama Murthy, the brother of Ganapathi Rao under registered sale deeds. They produced Exs.R.1 to R.7, which except Ex.R.6, are all the sale deeds in their favour. No revenue record, whatsoever is produced by the respondents to show that when they purchased the lands, the suit schedule lands were standing in the name of their vendor namely Rama Murthy. As already stated, the revenue records clearly show that the title deeds and pattedar passbook and adangal were all standing in the name of Ganapathi Rao but not Rama Murthy. Relying upon the documents produced by the petitioner, the trial Court granted the injunction which was made absolute. In appeal filed by the respondents, the appellate Court has set aside the injunction order and in doing so, reliance is placed on Ex.R.6, which is the letter purported to have been addressed by the Tahasildar to the Station House Officer, Palasa, where Crime No.74 of 2013 was registered against the petitioner and his vendor-Rama Murthy.

16. That apart, a perusal of Ex.R.6 shows that what Tahasildar informed the Station House Officer is that Patta No.219 purported to have been issued in favour of Konchada Ganapathi, S/o.Late Appanna has not been issued by his Office as per ROR 1-B Register available. In the instant case, the patta which is made the basis is in favour of one Konchada Ram Murthy but not Konchada Ganapathi as stated in Ex.R.6.

17. On the basis of such a letter, which is addressed by the Tahasildar to the Station House Officer, Palasa, the appellate Court has disbelieved the consistent entries in the revenue records, which evidently show that it is Rama Murthy who was the owner and possessor of the suit

schedule lands from whom the petitioner purchased the same under registered sale deed and after his purchase, his name has been mutated in the revenue records. For arriving at a *prima facie* finding, as already stated, the revenue records that were produced have to be accepted on its face unless contrary is proved during the course of trial. The appellate Court has erroneously relied upon on Ex.R.6 for branding the pattedar passbook, the title deeds, Adangal etc., produced by the petitioner as being false or fake.

18. Therefore, the order of the appellate Court cannot be sustained. The learned trial Court has considered the revenue records in proper perspective and granted the injunction pending disposal of the suit which has to be sustained. The revision is liable to be allowed.

19. In the result, the Civil Revision Petition is allowed. No order as to costs. The Senior Civil Judge, Sompeta, is directed to dispose of the suit in O.S.No.79 of 2013, preferably within a period of six months from the date of receipt of a copy of this Order.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

M.S.K.Jaiswal, J

Date: 18th September, 2017
Dsr/smr