

THE HON' BLE SRI JUSTICE C. PRAVEEN KUMAR

CIVIL REVISION PETITION No.2726 of 2017

ORDER:

1) Aggrieved by the order dated 08.07.2016, passed in I.A.No.650 of 2015 in I.A.No.591 of 2015 in O.S.No.147 of 2015 on the file of the Principal Junior Civil Judge, Piler, wherein a direction was given to the Station House Officer, Y.V.Palem Police Station to grant police aid in implementing the order passed in I.A.No.591 of 2015, the present Civil Revision Petition is filed under Article 227 of the Constitution of India.

2) For the sake of convenience, the parties hereinafter referred to as arrayed in O.S.No.147 of 2015.

3) The facts in issue are as under:

Respondent No.1 herein, filed O.S.No.147 of 2015 seeking permanent injunction restraining the defendants and their men from interfering with her peaceful possession and enjoyment over the schedule property. Pending the suit, the plaintiff filed I.A.No.591 of 2015 seeking temporary injunction. After hearing both sides, the trial Court, by its order dated 20.11.2015, granted ad-interim temporary injunction in favour of the plaintiff, restraining the defendants and their men from interfering with her possession and enjoyment. C.M.A.No.1 of 2017 came to be filed by the defendants, challenging the said

order, which is pending. While things stood thus, the plaintiff filed I.A.No.650 of 2015 seeking police aid to implement the injunction order stating that inspite of injunction orders, defendants are interfering with the property and that they are not allowing the plaintiff to harvest the standing crop.

4) A counter came to be filed by defendant No.1, which was adopted by defendant Nos.2 and 3. It is stated in the counter that the property admeasuring Ac.1.02 cents is in the custody of the defendants and the plaintiff has suppressed the said fact in the suit and also in the partition suit. According to them, the defendant never interfered with the property of the plaintiff. Therefore, the question of disobedience of the injunction order would not arise. It is further stated that when the defendants are not interfering, the question of granting police aid would not arise.

5) After considering the material on record, the trial Court allowed the said I.A. Challenging the same, the present Civil Revision Petition is filed.

6) Learned counsel for the petitioners mainly submits that in view of pendency of C.M.A., the trial Court ought not to have ordered police protection. It is further stated that the defendants are having property admeasuring Ac.1.02 cents, in the suit schedule property, and they are in peaceful possession

of the same and their interference with the property of the plaintiff is far from truth. He further submits that except the averment in the affidavit there is no material to show that the defendants violated the injunction order.

7) The same is opposed by the learned counsel for the respondent/plaintiff. He submits that though an order was passed in favour of the plaintiff but could not get it implemented in view of the high handed action of the defendants.

8) A perusal of the record would show that the suit was filed by the plaintiff seeking permanent injunction. In I.A.No.591 of 2015, ad-interim temporary injunction was granted after taking into consideration the rival objections made. It is to be noted here that against an order passed by the trial Court in I.A.No.591 of 2015, an appeal vide C.M.A.No.1 of 2017 was filed but till date no interim orders are passed in the said C.M.A. on the temporary injunction granted in favour of the plaintiff. There is no dispute with regard to proposition of law that the police aid can be granted in appropriate cases under Section 151 of C.P.C., when the Court is of the opinion that such protection is necessary to implement the injunction order.

9) Having regard to the facts and circumstances and taking into consideration the nature of averments made and in the

absence of any interim order in the C.M.A., the discretion exercised by the trial Court in granting police protection to the plaintiff warrants no interference. However, the same shall be subject to the orders, if any, to be passed in C.M.A.1 of 2017 filed against the order in I.A.No.591 of 2015.

10) Accordingly, the Civil Revision Petition is dismissed. There shall be no order as to costs.

11) As a sequel thereto, Miscellaneous Petitions pending if any, shall stand closed.

29.08.2017  
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JUSTICE C. PRAVEEN KUMAR