

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Civil Revision Petition No.3478 of 2016

ORDER:

The unsuccessful respondents/defendants 2 and 4 filed this revision petition, under Article 227 of the Constitution of India, assailing the orders, dated 13.06.2016, of the learned Junior Civil Judge, Thamballapalle, Chittoor District, passed in I.A.No.149 of 2013 filed by the sole plaintiff/1st respondent herein under Sections 94(E) and 151 of the Code of Civil Procedure, 1908, ('the Code', for short), requesting to direct the Station House Officer, Peddathippasamudram Police Station, to provide police aid to the petitioner/plaintiff whenever requested for carrying out agricultural operations in the suit schedule lands and for implementation of injunction orders, dated 15.04.2013, granted by the trial Court in I.A.No.168 of 2012 in O.S.No.51 of 2012.

2. I have heard the submissions of *Sri S.V. Sundararajan*, learned counsel appearing for the revision petitioners/defendants 2 and 4, and of *Sri T.V. Jaggi Reddy*, learned counsel appearing for the 1st respondent/plaintiff. Respondents 3 to 5/defendants 3, 5 and 6 are stated to be not necessary parties. 2nd respondent herein/1st defendant died. I have perused the material record.

3. The introductory facts, in brief, are as follows: "The plaintiff filed the suit against all the respondents/defendants including the revision petitioners/defendants 2 and 4 for a perpetual injunction. In the said suit, the plaintiff also filed I.A.No.168 of 2012 for grant of a temporary injunction originally against the defendants 1 to 3. On merits, the trial Court allowed the said petition on 15.04.2013. Since the 1st defendant died, his LRs were brought on record as the defendants 3 to 6. The defendants 2 to 6 preferred an appeal in CMA 25 of 2014 and the same was dismissed by the learned II Additional District Judge,

Madanapalle. The defendants 2 and 3, therefore, preferred CRP no. 1084 of 2016 before this Court.”

4. While so, the plaintiff while *inter alia* stating in his affidavit that the defendants/respondents 2 to 6 are interfering with his possession and enjoyment of the property, despite the temporary injunction orders granted in his favour, filed the subject application requesting to direct the Station House Officer, Peddathippasamudram Police Station, to provide police aid to the petitioner/plaintiff whenever requested for carrying out agricultural operations in the suit schedule lands and for implementation of injunction orders dated 15.04.2013 granted by the trial Court in I.A.No.168 of 2012 in O.S.No.51 of 2012.

5. The defendants 2 to 6 resisted the said application contending *inter alia* as follows: ‘The material allegations in the affidavit of the plaintiff filed in support of the petition are false. The plaintiff was never ready and willing to perform his part of the contract, which is the basis for the suit for specific performance. Out of item No.1 of plaint schedule property, Ac.3.50 cents was donated by the defendants for use as burial ground after the contract of sale stood repudiated and revoked and the plaintiff lost his rights under the suit agreement to sell. The mutation entries in the revenue records are not correct. The documents do not reveal the true facts. The plaintiff is not in possession of the schedule property; but, he managed the revenue authorities and manipulated the revenue entries in the revenue records. One of the respondents is a handicapped person and he cannot get up on his own and he has to be bodily lifted; therefore, he requires assistance of another person even to get up. One of the other respondents is not keeping good health. The plaintiff and his brothers are goondas and they want to forcefully take possession of the property. The petition seeking police aid is unsustainable. When the plaintiff is not in possession, the allegation that

these defendants are trying to dispossess the plaintiff does not arise for consideration. Police aid orders are being sought only based on interim orders of injunction. The main application for temporary injunction is not yet disposed of on merits. The plaintiff without getting ready for the hearing in the application filed for temporary injunction is trying to seek police aid. The petition is filed to tease the respondents/defendants, who are in possession of the property. The defendants 2 to 6 are not parties to the agreement to sell. The petition may be dismissed.'

6. On merits and by the order impugned, the trial Court granted police aid to the plaintiff directing the Station House Officer, Peddathippasamudram Police Station, to provide police aid to the plaintiff at the time of carrying out agricultural operations in the suit schedule lands.

7. Aggrieved thereof, the respondents/defendants 2 and 4 filed this revision.

8. The learned counsel for both the parties advanced arguments in line with the respective contentions of the parties, which are stated supra. To begin with, be it noted that the plaintiff brought the suit against the defendants 1 to 3 for specific performance and a perpetual injunction. In the said suit, the plaintiff also filed an interlocutory application in I.A.No.168 of 2012 for grant of a temporary injunction *inter alia* contending that pursuant to the agreement and the endorsements thereon, the entire property which is the suit schedule property was delivered to the plaintiff and that the property was also mutated in the name of the plaintiff and that the agreement and the endorsements on the agreement evidence the fact that the possession of the property was delivered to the plaintiff and that the plaintiff is in possession of the plaint schedule property. The defendants 1 to 3 by virtue of a counter filed by the defendants 1 and 2 resisted the said application *inter alia* contending that for non-performance of the

obligations on the part of the plaintiff, the agreement stood repudiated and revoked and that Ac.3.50 cents out of item no.1 of plaint schedule property was given for use as burial ground and that the plaintiff is not in possession of the plaint schedule property.

9. However, on merits, the trial Court allowed the said application by orders dated 15.04.2013, and made absolute the interim injunction granted on 04.05.2012 and thus, granted a temporary injunction in favour of the plaintiff and against the defendants 1 to 3. The 1st defendant died and his legal representatives were brought on record as defendants 4 to 6. Aggrieved thereof, the defendants 2 to 6 (since 1st defendant died) filed the aforesaid Civil Miscellaneous Appeal in C.M.A.No.25 of 2014 before the Court of the learned II Additional District Judge, Madanapalle. The learned Additional District Judge, by a decree and judgment dated 28.12.2015, dismissed the said appeal. Aggrieved thereof, the defendants 2, 3 and 4 preferred a revision before this Court in C.R.P.No.1084 of 2016. This Court, by separate orders, made today in the said revision, dismissed the same.

10. The plaintiff's case is that despite an injunction order granted in favour of the plaintiff, the defendants are still interfering with the plaintiff's peaceful possession and enjoyment of the plaint schedule property and are trying to dispossess him from the property highhandedly and that when he approached the police for necessary police protection, they stated to him to obtain protection orders from the Court and that police aid is necessary for carrying out agricultural operations in the plaint schedule land and for implementation of the injunction orders granted by the Court. In view of the temporary injunction orders in favour of the plaintiff and against the defendants, which have become final, with the dismissal of the revision petition filed by the defendants 2, 3 and 4, the contentions of the defendants including the revision petitioners herein that

the plaintiff is not in possession of the property and that they have given a part of the property for use as burial ground etcetera do not arise for consideration as the defendants 2 to 6 who suffered the injunction orders are bound to obey the orders of injunction as the said orders, which have become final, have to be honoured as long as they are in force and in operation and till they are modified or set aside by a superior Court or Forum. Therefore, none of the contentions of the revision petitioners need countenance.

11. A learned Single Judge of this Court in *Gampala Anthaiah v. Kasarla Venkat Reddy*¹ and *Yarlagunta Bhaskar Rao v. Bommaji Danam and others*² while holding that the decision of the Division Bench of this Court in *Polavarapu Nagamani v. Parchuri Koteswara Rao*³ is *per incuriam* and that the Court is empowered to grant police aid for implementation of the injunction orders held as follows:

“So a party, who obtained temporary injunction orders, and is complaining of violation of such orders, may file not only an execution petition under Order XXI Rule 32 CPC or an application under Order XXXIX Rule 2A of CPC seeking attachment and/or arrest of the violator for Contempt of Court, but also an application seeking police protection under Section 151 CPC from the Civil Court. With great respect to the Division Bench, I do not agree with its view that if a party were to be allowed to seek police protection under Section 151 CPC to implement an interim injunction order granted in his favour, it would render Order XXXIX Rule 2A and Order XXI Rule 32 otiose.

Of course, even the Division Bench accepted that the relief of police protection may be granted in a situation where an application is filed by the person obtaining an interim injunction alleging that there is a threat of breach, disobedience or violation of order of injunction, subject to proof.”

¹ 2014(2) ALT 661

² 2014(1) ALD 309

³ 2010 (6) ALT 92

Further, in Hindustan Petroleum Corporation Limited v. Government of AP⁴, another learned Single Judge of this Court also held that he agrees with the view that the decision of the Division Bench in Polavarapu Nagamani (supra) is *per incuriam*. In that view of the matter, the legal position as on today is clear that the trial Court is having power to grant police aid for implementation of the temporary injunction orders.

12. Indeed, the temporary injunction orders have become final after disposal of the revision petition by this Court; and the Courts below concurrently found that the plaintiff is in possession of the property. Hence, the defendants cannot be heard to say at this stage that the plaintiff is not in possession. Admittedly, the land in question, in two items, is an agricultural dry land and is cultivable. If the police aid is not granted and there is scramble for possession, the land would unnecessarily be left fallow and any scramble for possession may lead to complex situations also. Since the defendants who suffered the injunction order are bound to obey the injunction orders of the Court, it is just and fair to grant police aid to enable the plaintiff to carry out agricultural operations in the lands and cultivate the lands, as such a course would sub-serve the ends of justice.

13. Viewed thus, this Court finds that the trial Court is justified in granting police aid and that therefore, the said orders do not brook interference.

14. In the result, the Civil Revision Petition is dismissed confirming the orders of the trial Court.

Miscellaneous petitions pending, if any, in this revision petition shall stand closed. There shall be no order as to costs.

M.SEETHARAMA MURTI, J

17th January, 2016
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⁴ 2015 (3) ALT 59