

THE HON'BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CIVIL REVISION PETITION No.5379 of 2017

ORDER:

This Civil Revision Petition is arising out of the order dated 13.11.2014 passed in Agency Case No.A4/CPC/194/2014 by the Additional Agent to Government and Project Officer, ITDA, Adilabad Head Quarters, Utnoor.

2. The 1st respondent herein filed the suit against respondents 2, 3 and 4, under Rule 14 of the A.P. Agency Rules and Section 26 and Order VII Rules 1 and 2 of Code of Civil Procedure, seeking permanent injunction, and also for interim injunction. The Project Officer granted interim injunction restraining the respondents from interfering with the possession of 1st respondent. Aggrieved by the order passed by the Project Officer, one Boda Thirupathi, who is the son of 2nd respondent herein and who is a third party to the suit, has preferred this civil revision petition.

3. Heard the arguments of learned counsel for the revision petitioner, and the learned counsel for respondents 1, 3 and 4.

4. Learned counsel for the petitioner submits that the petitioner is the pattadar of suit schedule property and that the petitioner and respondents belong to Scheduled Tribe community and their village comes under Agency area. He further submits that the father of the petitioner has purchased the land to an extent of Ac.0-36 gts., in

Sy.No.146 from its original owner. Thereafter, partition of property has taken place and a piece of land went to the share of the petitioner herein. He made an application to the revenue authorities and they have conducted an enquiry and verified the documents and mutated the property in the name of petitioner. The revenue authorities have also issued proceedings and issued pattadar pass books in favour of the petitioner and thereby the petitioner became absolute owner and possessor of the land and cultivating the same. Learned counsel submits that the 1st respondent-plaintiff has suppressed the said fact, and filed the suit before the Agency Court for permanent injunction against respondents 2 to 4 without impleading the petitioner as a party to the proceedings in the agency suit, and the Agency Court, without considering the same, granted interim injunction in favour of 1st respondent, which is affecting the right of petitioner herein and, therefore, sought for setting aside the orders passed by the Agency Court. Learned counsel further submits that the 2nd respondent is the father of petitioner and he is the defendant in the agency suit and he filed his written statement stating that the petitioner herein is the owner of the property, but even then he was not made a party to the proceedings. Learned counsel further submits that respondents 1 to 4 have nothing to do with the property of the petitioner and, therefore, the interim injunction granted by the Agency Court, with out considering these aspects and without making the petitioner as a party to the proceedings, is liable to be set aside. And, therefore, the learned

counsel sought for setting aside the interim injunction passed by the Agency Court.

5. Learned counsel for respondents 1, 3 and 4 has submitted that the petitioner is not entitled to file a Civil Revision Petition challenging the injunction orders passed by the Agency Court. It is submitted that he is neither a party to the Agency Suit nor a party to the injunction petition and, therefore, the petitioner cannot file a revision against the orders passed by the Agency Court, since he is a third party to the suit. It is further argued that the Tahsildar, Jannaram Mandal, Adilabad District, has issued ROR proceedings in No.A3/1927/2013, dated 11.09.2013 by cancelling the transfer of patta vide proceedings ROR/07/2008, dated 26.03.2013 issued in respect of Sy.No.146 to an extent of Ac.0-36 gts. in the name of Sri Boda Tirupathi, the petitioner herein. Therefore, it is argued that since the patta of the petitioner is cancelled by the Mandal Revenue Officer, the petitioner has no right in the agency suit property and, therefore, he cannot seek stay of the injunction proceedings. Learned counsel further submits that if the petitioner is aggrieved, he may move a petition before the Agency Court for impleading him as a party to the suit and agitate his rights before the Agency Court.

6. On consideration of the arguments of the leaned counsel for petitioner and respondents, it is obvious that the petitioner is not a party to the proceedings in the Agency suit and also the injunction petition. The petitioner is claiming title over the schedule property, which is in dispute before the Agency Court. The petitioner is at liberty

to move an application before the Agency Court to implead him as a party in a suit for injunction, if he is claiming rights in the schedule property. Since the petitioner is not a party before the Agency Court, he cannot seek for setting aside the orders passed by the Agency Court without exhausting the alternative remedies available before the Agency Court. Therefore, the civil revision petition is liable to be dismissed.

7. **IN THE RESULT**, the Civil Revision is dismissed. The petitioner is given liberty to file a petition under Order 1 Rule 10 CPC before the Agency Court, seeking to implead him as a party to the suit in Agency Case No.A4/CPC/194/2014, since he is claiming rights over the schedule property. On filing such petition, the Agency Court may consider the petition on merits in accordance with law. No costs. Miscellaneous petitions, if any pending, shall stand closed.

GUDISEVA SHYAM PRASAD, J

22nd December, 2017

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